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13. Debt Legislation. 1937. (C.P.) pp. 82-129.
X9(J):(2270) G7

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14. An Act (No.VII of 1933) for the protection of certain classes of debtors. pp.130-134.
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CENTRAL PROVINCES ACT No. II OF 1933 AS AMENDED BY ACT No: I OF 1934 & Nos: XIV & XXVIII of

THE CENTRAL PROVINCES DEBT CONCILIATION ACT, 1933, AS APPLIED TO BERAR

[*Vide* Government of India, Foreign Department, Notification No. 81-I, dated the 21st February 1934.]

An Act to make provision for the setting up of Debt Conciliation Boards to relieve agriculturists from indebtedness.

TABLE OF CONTENTS

Preamble.

Sections.

1. Short title, extent and commencement.
2. Definitions.
3. Establishment of Debt Conciliation Board.
4. Application for settlement between debtor and his creditors.
5. Verification of application.
6. Particulars to be stated in application.
7. Procedure on application.
8. Notice calling upon creditors to submit statement of debts.
9. Procedure on submission of statement of debts.
10. Board to endeavour amicable settlement.
11. Power of Board to require attendance of persons and production of documents and to receive evidence.
12. Agreement of amicable settlement, its registration and effect.
13. Recovery of sums due under agreement.
14. Power of Board to dismiss application.
15. Grant of certificate by Board in respect of certain debts.
16. Bar of civil suits.
17. Avoidance of certain transfers of debtor's property.
18. Bar of appeal or revision.
19. Power of Board to review its order.

[*Price—Annas Two*]

TABLE OF CONTENTS

Sections.
20. Appearance of party before Board by agent but not by legal practitioner.
21. Suspension of pending application or suit.
22. Submission of reports by Boards regarding sur due to Government.
23. Allowance of time for limitation
24. Members of Board deemed to be public servants
25. Power to make rules.
26. General provisions regarding rules.

CENTRAL PROVINCES ACT No. II OF 1933 AS AMENDED BY ACT No. I OF 1934 Nos. XV & XXVIII 9/9

THE CENTRAL PROVINCES DEBT CONCILIATION ACT, 1933, AS APPLIED TO BERAR

An Act to make provision for the setting up of Debt Conciliation Boards to relieve agriculturists from indebtedness.

Preamble

WHEREAS it is expedient to relieve agriculturists from indebtedness by amicable settlement between them and their creditors;

AND WHEREAS the previous sanction of the Governor General required by sub-section (3) of section 80-A of the Government of India Act has been obtained to the passing of this Act;

It is hereby enacted as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Central Provinces Debt Conciliation Act, 1933.

(2) It extends to the whole of the Central Provinces.

(3) It shall come into force on such date as the Local Government may, by notification, direct.

[The Act was extended to Berar with effect from the 1st April 1934 (*vide* Notification No 875-862-XII, dated the 13th March 1934).]

Definitions

2. In this Act, unless there is anything repugnant in the subject or context—

(*a*) the expressions "holder", "holding" and "village" shall have the meanings assigned to them in the Berar Land Revenue Code, 1928.

(*b*) "Agriculture" includes—

(i) the raising of annual or periodical crops and garden produce;

(ii) horticulture;

(iii) the planting and upkeep of orchards, and

(iv) the reserving of land for fodder, grazing or thatching grass;

(*c*) "Board" means a Debt Conciliation Board established under sub-section (1) of section 3;

(*d*) "creditor" means a person to whom a debt is owing and includes a co-operative society;

(*e*) "debt" includes all liabilities owing to a creditor, in cash or kind, secured or unsecured, payable under a decree or order of a civil court or otherwise, whether due or not due, but shall not include arrears of wages, land revenue or anything recoverable as an arrear of land revenue, or any money for the recovery of which a suit is barred by limitation;

(f) "debtor" means a person who earns his livelihood mainly by agriculture and who is a holder whose debts exceed Rs. 150;

(g) "prescribed" means prescribed by rules made under this Act.

Establishment of Debt Conciliation Board.

3. (1) The Local Government may establish a Debt Conciliation Board for any district or part of a district. Such Board shall consist of a Chairman and two or more members, not exceeding nine, including the Chairman, to be appointed by the Local Government which may, for reasons to be recorded in writing, cancel any appointment and dissolve any Board.

(2) The Chairman and every member of a Board so established shall be appointed for a term not exceeding one year. Such Chairman or member may, on the expiration of the period for which he has been appointed, be again appointed for a further term not exceeding one year.

(3) A Board shall have such quorum as may be prescribed.

(4) Where the Chairman and members of a Board are unable to agree, the opinion of the majority shall prevail. Where the Board is equally divided the Chairman shall have a casting vote.

Application for settlement between debtor and his creditors.

4. (1) A debtor or any of his creditors may apply to the Board appointed for the area in which any holding or village of the debtor, or any part thereof, is situate, to effect a settlement between the debtor and his creditors:

Provided that no application shall be made if the debtor's debts exceed twenty-five thousand rupees or such larger amount as may be prescribed for each area.

(2) No debtor or creditor shall simultaneously make more than one application, and where applications have been made by the debtor and any of his creditors, the applications made by the creditors shall be merged in the application made by the debtor.

Verification of application.

5. Every application to a Board shall be in writing and shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1908, for signing and verifying plaints.

Particulars to be stated in application.

6. (1) Every application presented by a debtor to a Board shall contain the following particulars, namely:—

(a) a statement that the debtor is unable to pay his debts;

(b) the place where he resides;

(c) the amount and particulars of all claims against him together with the names and residences of the creditors, and, in the case of a creditor who is a minor or lunatic, the name of his guardian or the person in whose charge the property of such creditor is, so far as they are known to, or can by the exercise of reasonable care and diligence be ascertained by him; and

(*d*) the amount and particulars of all his property, including claims due to him, together with a specification of the value of such property not consisting of money, and the place or places at which any such property is to be found.

(2) Every application presented by a creditor shall contain the following particulars, namely:—

(*a*) the place where the debtor resides; and

(*b*) the amount and particulars of his claim against such debtor.

Procedure on application.

7. (1) On receipt of an application under section 4, the Board shall pass an order fixing a date and place for hearing the application:

Provided that the Board may at any time dismiss the application if, for reasons to be stated in writing, it does not consider it desirable to attempt to effect a settlement between the debtor and his creditors.

(2) Notice of the order under sub-section (1) shall be sent by registered post to the debtor or creditors, as the case may be.

Notice calling upon creditors to submit statement of debts.

8. (1) If, after examining the debtor, it is in the opinion of the Board desirable to attempt to effect a settlement between him and his creditors, a notice shall be issued and served or published in the manner prescribed, calling upon every creditor of the debtor to submit a statement of debts owed to such creditor by the debtor. Such statement shall be submitted to the Board in writing within two months from the date of service or publication of the notice, as the case may be:

Provided that, if the Board is satisfied that any creditor was, for good and sufficient cause, unable to comply with such directions, it shall extend the period for the submission of his statement of the debt owed to him

(2) Every debt of which a statement is not submitted to the Board in compliance with the provisions of sub-section (1) shall be deemed for all purposes and all occasions to have been duly discharged:

Provided that, if a creditor proves to the satisfaction of the Board or a civil court that the notice was not served on him and that he had no knowledge of its publication, or that he was prevented from complying with the provisions of sub-section (1) on account of unforeseen or unavoidable difficulty or cause, the Board or civil court shall revive the debt.

Procedure on submission of statement of debts.

9. (1) Every creditor submitting a statement of the debts owed to him in compliance with a notice issued under sub-section (1) of section 8 shall furnish, along with such statement, full particulars of all such debts and shall at the same time produce all documents, including entries in books of account, on which he relies to support his claims, together with a true copy of every such document:

Provided that, if the Board is satisfied that any creditor was, for good and sufficient cause, unable to produce such documents along with the statement, it shall require them to be produced on a date fixed by it for the purpose; and

(2) The Board shall, after marking for the purpose of identification every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the creditor.

(3) If any document which is in the possession or under the control of the creditor is not produced by him as required by sub-section (1), the document shall not be admissible in evidence against the debtor or his heirs in any suit brought by the creditor or by any person claiming under him.

Board to endeavour amicable settlement.

10. The Board shall call upon the debtor and each creditor, respectively, to explain his case regarding each debt and shall endeavour to induce them to arrive at an amicable settlement.

Power of Board to require attendance of persons and production of documents and to receive evidence

11. (1) Subject to the provisions of sections 132 and 133 of the Code of Civil Procedure, 1908, and to rules made under section 25 a Board shall have power to summon any person whose attendance it considers necessary either to be examined as a party or to give evidence as a witness or to produce any document for the purposes of any inquiry under this Act V of 1908

(2) Any person present may be required by a Board to give evidence or to produce any document then and there in his possession or power.

Agreement of amicable settlement, its registration and effect.

12. (1) If the creditors to whom not less than forty per cent of the total amount of the debtor's debts are owing come to an amicable settlement with the debtor, such settlement shall forthwith be reduced to writing in the form of an agreement recording the amounts payable to such creditors and the manner in which and the times at which they are to be paid. Such agreement shall be read out and explained to the parties concerned, and shall be signed or otherwise authenticated by the Board and the parties.

Provided that, when a co-operative society is one of such creditors, no settlement, in so far as it affects the debts owing to such society, shall be valid without the previous approval in writing of the Registrar of Co-operative Societies

(2) An agreement thus made shall, within ~~fourteen days~~ one month from the date of its making, be registered under the Indian Registration Act, 1908, by the Chairman of the Board in such manner as may be prescribed and it shall then take effect as if it were a decree of a civil court. XVI of 1908

(3) For the purpose of the registration of an agreement under sub-section (2), the Chairman of the Board shall be deemed to be an officer of Government empowered to execute such agreement within the meaning of section 88 of the Indian Registration Act, 1908.

1 of 1908.

Recovery of sums due under agreement.

13. (1) If a debtor defaults in paying any amount due in accordance with the terms of an agreement registered under sub-section (2) of section 12, such amount shall be recoverable as an arrear of land revenue on the application of the creditor made to the Deputy Commissioner within ninety days from the date of default.

(2) Where the Deputy Commissioner fails to recover as an arrear of land revenue any part of such amount, he shall certify that it is irrecoverable and thereupon the agreement shall cease to subsist.

(3) Where an agreement ceases to subsist, any amount which was payable under such agreement but has not been paid shall be recoverable as if a decree of a civil court had then been passed for its payment.

Power of Board to dismiss application.

14. If no amicable settlement is arrived at under sub-section (1) of section 12, the Board shall dismiss the application.

Grant of certificate by Board in respect of certain debts.

15. (1) Where, during the hearing of any application made under section 4, any creditor refuses to agree to an amicable settlement, the Board may, if it is of opinion that the debtor has made such creditor a fair offer which the creditor ought reasonably to accept, grant the debtor a certificate, in such form as may be prescribed, in respect of the debts owed by him to such creditor.

Power of Court to disallow costs or interest.

(2) Where any creditor sues in a civil court for the recovery of a debt in respect of which a certificate has been granted under sub-section (1), the court shall, notwithstanding the provisions of any law for the time being in force, not allow the plaintiff any costs in such suit, or any interest on the debt after the date of such certificate in excess of simple interest at six per cent per annum on the amount due on the date of such certificate.

(3) Where, after the registration of an agreement under sub-section (2) of section 12, any unsecured creditor sues for the recovery of a debt, other than a debt incurred subsequent to such agreement, in respect of which a certificate has been granted under sub-section (1) or any creditor sues for the recovery of a debt incurred after the date of such registration, any decree passed in such suit shall, notwithstanding anything contained in the Code of Civil Procedure, 1908, not be executed until all amounts recorded as payable under such agreement have been paid or such agreement has ceased to subsist.

V of 1908.

Bar of civil suits.

16. No civil court shall entertain—

(a) any suit in respect of—

(i) any matter pending before a Board, or

Provided that the provision in this sub-section shall not affect execution of a decree in a suit for the recovery of any sum

(ii) the validity of any procedure or the legality of any agreement made under this Act, or

(iii) the recovery of any debt recorded as wholly or partly payable under an agreement registered under sub-section (2) of section 12 from any person who, as a debtor, was party to such agreement whether such agreement is subsisting or not, or

(iv) the recovery of any debt which has been deemed to have been duly discharged under sub-section (2) of section 8, except a debt which is revived under the proviso to that sub-section;

(*b*) any application to execute a decree, the execution of which is suspended under sub-section (3) of section 15.

Avoidance of certain transfers of debtor's property.

17. Every transfer of property made, with intent to defeat or delay the creditors of the debtor, after an application has been made to a Board under section 4 and until the agreement registered in respect of such application has ceased to subsist, shall be voidable at the option of any creditor so defeated or delayed.

Bar of appeal or revision.

18. No appeal or application for revision shall lie against any order passed by a Board.

Power of Board to review its order.

19. A Board may, on the application from any person interested made within ninety days of the passing of an order, review any order passed by it and pass such order in reference thereto as it thinks fit:

Provided that no order shall be varied or reversed unless notice has been given to the persons interested to appear and be heard in support of such order.

Appearance of party before Board by agent but not by legal practitioner.

20. In any proceedings before a Board any party may be permitted to appear by an agent authorized in writing, but not by a legal practitioner.

Suspension of pending application or suit.

21. When an application has been made to a Board under section 4, any suit or other proceedings then pending before a civil court in respect of any debt for the settlement of which application has been made shall be suspended until the Board has disposed of the application:

Provided that no decree, whether passed before the date of such application or passed in the suit after revival, for the recovery of an unsecured debt in respect of which a certificate has been granted under sub-section (1) of section 15, shall be executed until all amounts recorded as payable under an agreement registered under sub-section (2) of section 12 have been paid or such agreement has ceased to subsist.

Submission of reports by Boards regarding sums due to Government.

22. Where in the course of an inquiry into an application made under section 4 a Board finds that there is any sum owing to Government on account of loans advanced under the Agriculturists Loans Act, 1884, or the Land Improvement Loans Act, 1883, or otherwise, the Board shall report this fact through the Deputy Commissioner to the Commissioner.

XII of 1884.

XIX of 1883.

Allowance for time for limitation.

23. In calculating the period of limitation for any suit filed in, or proceeding before, a civil court for the recovery of a debt which was the subject of any proceedings under this Act, the time during which such proceedings had continued shall be excluded.

Members of Board deemed to be public servant.

24. The members of a Board shall be deemed to be public servants within the meaning of the Indian Penal Code.

Power to make rules.

25. In addition to any power specially conferred by this Act the Local Government may make rules—

(*a*) prescribing the quorum for, and regulating the procedure before, a Board;

(*b*) prescribing the manner in which notices shall be issued and served or published under sub-section (1) of section 8;

(*c*) prescribing the charges to be made by a Board for anything done under this Act and the persons by whom and the manner in which such charges shall be paid;

(*d*) prescribing the records to be kept and the returns to be made by a Board;

(*e*) prescribing the allowances, if any, to be paid to the Chairman and members of a Board;

(*f*) regulating the power of a Board to summon parties and witnesses under section 11 and the grant of expenses to witnesses;

(*g*) prescribing the place at which and the manner in which an agreement shall be registered under sub-section (2) of section 12;

(*h*) prescribing the form of certificate to be granted under sub-section (2) of section 13 or sub-section (1) of section 15; and

(*i*) generally, for the purpose of carrying into effect the provisions of this Act.

General provisions regarding rules.

26. (1) All rules for which provision is made in this Act shall be made by the Local Government and shall be consistent with this Act.

(2) All rules shall be subject to the condition of previous publication.

(3) In making any rule the Local Government may direct that a breach thereof shall be punishable with fine which may extend to fifty rupees, and, where the breach is a continuing one, with further fine which may extend to ten rupees for every day after the first during which the breach has been persisted in.

X9(J):(Z271)
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RULES FRAMED UNDER THE ACT

In exercise of the powers conferred by section 25 of the Central Provinces Debt Conciliation Act, 1933 (C. P. Act II of 1933), as applied to Berar, read with section 21 of the Central Provinces General Clauses Act, 1914 (C. P. Act I of 1914), as applied to Berar, the Local Government is pleased to make, after previous publication, the following rules for the purposes mentioned therein :—

Notification No. 1796-XII, d. 6-6-34.

RULES

1. (1) These rules may be called the Berar Debt Conciliation Rules, 1934.

(2) In these rules "Act" means the Central Provinces Debt Conciliation Act, 1933, as applied to Berar.

2. The quorum necessary for the transaction of business at a meeting of a Board shall be as follows :—

	Quorum.
(i) In the case of a Board where the number of members is 3.	2
(ii) Where the number of members is more than 3 :	3

Provided that a Board having a quorum may act notwithstanding any vacancy in the number of its members other than the Chairman.

3. The Chairman shall preside at every meeting of the Board and shall regulate the course of all business.

4. (1) The Board shall ordinarily hold its sitting at such place as may be appointed as its headquarters by the Deputy Commissioner, but may sit at any other place within its jurisdiction for the convenient disposal of its business.

(2) The Board shall hold its sittings at such times as may be fixed from time to time by the Chairman and may adjourn its proceedings for any period if such adjournment is, in its opinion, necessary for the proper conduct of the proceedings.

5. The parties shall be notified by the Chairman in such manner as he may deem necessary, of the time, and, if the place is other than the Board's ordinary headquarters, of the place at which the Board's sittings are to be held unless a special method for the service of a notice is prescribed by the Act.

6. An application under section 4 shall be made in Form No. I appended to these rules, and shall be presented at any time during court hours by the applicant in person or by an agent authorized in writing to the Chairman or any member of the Board. With it an occupant of khalsa land or a tenant of alienated land may be required by the Board, by general or special order, to produce his *rasid bahi* and a copy of entries in the record of rights of all land held by him.

7. Any member of the Board may examine the applicant in order to verify the accuracy of the particulars contained in the application and may call for additional information to complete the application.

8. If it is decided to proceed with the application the order under sub-section (1) of section 7 shall be recorded on an order sheet in the form prescribed for revenue cases. This form shall contain a note of every interlocutory order made in the case and shall show the date and place of the proceedings at every hearing. The proceedings shall be conducted, as nearly as may be, in accordance with the rules and procedure prescribed for the disposal of revenue cases under the Berar Land Revenue Code, 1928.

9. Every application shall be made into a revenue case and dealt with according to the instructions in the Berar Revenue Book Circular II-1.

10. An abstract of the statement made by each witness and the statements of the parties shall be filed with the record.

11. If at any time during the course of the proceedings it appears to the Board that any creditor has filed a suit or started any other proceedings which should be suspended under section 21 of the Act, the Board shall grant a certificate in Form No. II appended to these rules over the signature of the Chairman to the debtor concerned, specifying the debts owing to any such creditor which may be under settlement.

12. All certificates granted by the Board and all notices, summonses and other processes issued by the Board shall be signed by the Chairman and shall be dated and sealed with the seal of the Board.

13. The proceedings of the Board shall be recorded in English unless the Chairman decides to record them in the local vernacular.

14. Every notice under sub-section (2) of section 7 of the Act shall be in Form No. III appended to these rules.

15. Every notice under sub-section (1) of section 8 of the Act shall be in Form No. IV appended to these rules.

16. A copy of the notice under sub-section (1) of section 8 shall be served on each known creditor. A copy shall also be posted on the district and taluq office notice boards and the notice board of the Board's office. A copy shall also be posted in the chaudi of the village where the debtor ordinarily resides and of all the villages within the area for which the Board has been appointed where any holding or land of the debtor or any part thereof is situate.

17. Every notice required to be served under the above rule may be served either by tendering or delivering a copy thereof or sending such copy by registered post to the creditor on whom it is to be served or his authorized agent, or if service in the manner aforesaid cannot be made, by affixing a copy thereof at his last known place of residence.

18. No notice shall be deemed void on account of any error in the name or designation of any person referred to therein unless such error has produced substantial injustice.

19. Every application to the Board shall be stamped with a court-fee stamp of the value of eight annas.

20. Process fees shall be paid for the issue of notices and summonses in accordance with the scales prescribed from time to time in the rules on the subject made under the Berar Land Revenue Code, 1928, and shall be paid in court-fee stamps.

21. The cost of registering an agreement under sub-section (2) of section 12 shall be paid by the creditors, the amount payable by each creditor being proportionate to the compounded debt stated to be payable to him under the agreement and on default shall be recoverable from him as an arrear of land revenue.

22. The process fee on every application to the Deputy Commissioner for the recovery of any amount under sub-section (1) of section 13 shall be paid in advance by the creditor in accordance with the rules from time to time made under the Berar Land Revenue Code, 1928, in court-fee stamps.

23. The stamps duty on an agreement drawn up under sub-section (1) of section 12 shall be payable by the debtor in non-judicial stamps.

24. Every application for a copy shall be addressed to the Chairman and shall bear a court-fee stamp of the value of one anna.

25. Copying fees for copies of records maintained by the Board and in its custody shall be charged at the rate of four annas for every 180 English words or 290 vernacular words, four figures being counted as one word.

26. Every application for a copy shall be accompanied by an advance sufficient to cover the estimated cost of the copy applied for.

27. The Chairman may then get the copy prepared on plain paper certified as a true copy over his signature and deliver it to the applicant or his duly authorized agent and also refund him the balance, if any, left out of the advance after meeting the copying charges.

28. The fees chargeable under the rules 25 and 26 shall be paid in cash to the Chairman who shall forthwith give a receipt over his signature to the applicant in the prescribed form and credit the amount into the treasury. Except where it is provided otherwise in these rules the Chairman shall, as far as possible, follow in regard to the grant of copies the procedure laid down in the rules for the grant of copies of revenue records made from time to time under the Berar Land Revenue Code, 1928.

29. The copying of records sent to the district office for safe custody shall be governed by the rules from time to time made under the Berar Land Revenue Code, 1928.

30. (1) The following registers and books shall be maintained by a Board :—

1. Register of cases.
2. Process register.
3. Diet-money register.
4. Inspection book.
5. Copying-fee register.
6. Receipt book.
7. Register of contingent expenditure.

(2) These registers and books shall be maintained in the forms prescribed for revenue case work.

31. The registers and books specified in rule 30 and the proceedings in each case shall, on completion, be transferred to the district office.

Notification No. 2036-829-XII, d. 21-6-35.

In the district office the proceedings in each case shall be preserved as under and the registers and books for six years :—

(1) Cases dismissed under section 7 (1) ..	2 years.
(2) Cases rejected under section 14 : –	
(a) Those in which certificates under section 15 have been issued.	20 years.
(b) Those in which no certificates under section 15 have been issued.	2 years.
(3) Cases which have resulted in agreement ...	3 years after payment of the last instalment or 3 years after the issue of certificate by the Deputy Commissioner under section 13 (2) of the Act.

32. The Board may also, with the approval of the Deputy Commissioner, use such other revenue forms and registers as may be considered necessary by it.

33. The Board shall submit through the Deputy Commissioner and the Commissioner, to the Local Government, a monthly progress return in Form No. V appended to these rules.

34. The Board shall also submit by the 1st of April and 1st of October every year through the Deputy Commissioner and the Commissioner to the Local Government a report on the following particulars :—

(i) Progress of work and results achieved.

(ii) Difficulties experienced in working the Act, and amendments, if any, that appear to be necessary to the Act or rules.

35. All the records maintained by the Board and not sent for safe custody to the district office shall be open to inspection at such time, in such place, and in the presence of such official as the Chairman of the Board may direct, free of charge by the parties, and on payment by others of a fee of 12 annas per hour or part thereof to be prepaid in court-fee stamps.

36. The inspection of records sent to the district office for safe custody shall be governed by the rules from time to time made under the Berar Land Revenue Code, 1928.

37. (1) The Chairman or a member of the Board, if a non-official, shall be entitled to draw travelling allowance for any journey performed by him in connection with his duties as such Chairman or member at the rates admissible, and subject to the conditions applicable to a Government servant of the second grade under the Supplementary Rules issued by the Local Government. Subject to the same conditions, he shall be entitled to daily allowance at the rate of Rs. 3 per day.

(2) The Chairman or a member of a Board, if an official, shall be entitled to draw for any journey travelling allowance and halting allowance to which he would be entitled by virtue of his official position.

(3) The Deputy Commissioner shall be the controlling officer empowered to countersign the travelling allowance bills of the Chairman and members of a Board.

38. The Local Government may provide such ministerial and menial staff as the Board may, from time to time, require and may regulate the conditions of their employment and fix the salaries and allowances payable to them.

39. The power of a Board to summon a party or witness shall be the same as is conferred on a revenue officer by section 20 of the Berar Land Revenue Code, 1928.

40. The form of the summons, the mode of serving and the mode of compliance shall be as prescribed, in the case of revenue officers, by sections 21 and 22 of the Berar Land Revenue Code, 1928.

41. Process fees shall be recovered for the issue of summonses and payment of diet-money and travelling expenses shall be made to witnesses, in accordance with the rules from time to time made under the Berar Land Revenue Code, 1928.

42. Every agreement arrived at under sub-section (1) of section 12 shall be registered at the Sub-Registrar's office for the sub-district within which the ordinary headquarters of the Board is situate.

43. A certificate under sub-section (2) of section 13 shall be in Form No. VI appended to these rules.

44. A certificate under sub-section (1) of section 15 shall be in Form No. VII appended to these rules.

45. In all administrative matters the Board shall be subordinate to the Deputy Commissioner and subject to the disciplinary control of the Commissioner and the Local Government. The Deputy Commissioner shall appoint, punish and generally control the staff of the Board.

46. All processes issued by the Board shall be served by the tahsil process-serving staff through the Tahsildar of the taluq concerned.

47. In every case in which a debtor or a creditor is a minor or a person of unsound mind, the Board and the parties concerned shall, so far as may be, follow the procedure laid down in Order XXXII of the first schedule to the Code of Civil Procedure, 1908, as applied to Berar.

FORM No. I

(Form of application referred to in rule 6)

To—The Debt Conciliation Board,

.....taluq.

Under section 4 of the Central Provinces Debt Conciliation Act, as applied to Berar, I....., son of....., caste....., resident of....., taluq, beg to apply for a settlement of my $\frac{\text{debts}}{\text{claims}}$ between my $\frac{\text{creditor}}{\text{debtors}}$ and myself. The particulars required by section 6 of the Act are as follows :—

Name, residence and full address of creditor or debtor.	Amount of debt or claim owed.	Particulars of debts, claims, including date of commencement, rate of interest, whether secured, and if so, how, etc.
1	2	3
Total ..		

2. I hereby declare that I am unable to pay the debts owed by me as shown above.

3. The amount and particulars of my property including claims due to me are as follows :—

Property.

Specification of property.	Village.	Total area or extent of share.	Rent or revenue payable.	Value.	Remarks.
1	2	3	4	5	6
(1) *Immoveable*—			Rs.	Rs.	
(*a*) Proprietary rights in alienated villages or lands.					
(*b*) Tenancy rights in alienated villages.					
(*c*) Rights in Khalsa land.					
(*d*) Houses ..					

(2) *Moveable, including cash.*—Description. Value and rights to cash emoluments or allowances.

(3) *Claims due*—

Name and address of debtor. Amount due.

N. B.—Paragraphs 2 and 3 will be scored out in the case of creditors.

Signature of applicant.

Verified that the contents of paragraph of the application are true upon the personal knowledge of, and those in paragraph upon information received and believed to be true by the undersigned.

Declared at..... on.....

Signature of applicant.

FORM No. II

Form of Certificate

[*Section 21 of the Central Provinces Debt Conciliation Act, 1933, as applied to Berar, and rule 11 of the Berar Debt Conciliation Rules, 1934.*]

This is to certify that an application has been made to this Board for the settlement of the debts of..... .. . (debtor) among which is a debt of Rs. ....which the aforesaid debtor is said to be owing to..... .....of .. ..(creditor).

Dated.....the.....day of.....193 .

(Seal of the Board.)

Signature of Chairman,
Debt Conciliation Board,
....*district*

FORM No. III

Form of notice to creditors or debtor under sub-section (2) of section 7 of the Central Provinces Debt Conciliation Act, 1933, as applied to Berar

[*Rule 14 of the Berar Debt Conciliation Rules, 1934.*]

Notice is hereby given to..... ....that an application under section 4 of the aforesaid Act has been submitted for the settlement of the debts of.....and will be examined by the Board, together with any objections that may be preferred by any person interested at.....at.....o'clock on the..... .day of.....193 .

Dated.....the .....day of.....193 .

(Seal of the Board.)

Signature of Chairman,
Debt Conciliation Board,
.....*district*.

FORM No. IV

Form of notice under sub-section (1) of section 8 of the Central Provinces Debt Conciliation Act, 1933, as applied to Berar

[Rule 15 of the Berar Debt Conciliation Rules, 1934.]

Whereas ....., son of ....., caste ....., of....., taluq....., $\frac{\text{debtor}}{\text{creditor}}$ has submitted an application under section 4 of the aforesaid Act for the settlement of the debts of....., son of ....., caste ....., of ....., taluq ....., and whereas the Board is of the opinion that it is desirable to attempt to effect a settlement between the said debtor and his creditor, $\frac{\text{you as one of the creditors}}{\text{all the creditors}}$ to whom the said debtor is indebted are hereby required to submit to the Board a statement in writing within two months of the date of $\frac{\text{service}}{\text{publication}}$ of this notice at the Board's office at....., of all debts owed to $\frac{\text{you}}{\text{them}}$ by the said debtor. The Board will scrutinize this statement at 11 a.m. on.....day.....when you should appear before the Board.

2. $\frac{\text{You}}{\text{All the creditors}}$ are also required to furnish, along with such statement, full particulars of all such debts and shall at the same time produce all documents, including entries in books of account on which $\frac{\text{you}}{\text{they}}$ rely to support $\frac{\text{your}}{\text{their}}$ claims, together with a true copy of every such document.

Attention is invited to section 8 (2) of the said Act under which every debt of which a statement is not submitted to the Board in compliance with this notice shall be deemed for all purposes and all occasions to have been duly discharged.

3. The settlement in this case will take place at..... at 11 a.m. on the.....day of.....193 when you should appear before the Board.

Dated..... ..the.....day of.....193

(Seal of the Board.)

Signature of Chairman,
Debt Conciliation Board,
..... *district*

FORM No. V

Monthly progress return for the month of.....193 *of the Debt Conciliation Board,*.....*district.*

[Rule 33 of the Berar Debt Conciliation Rules, 1934.]

Cases ending pat the beginning of the month.		Cases registered during the month.		Cases disposed of during the month.										Cases pending at close of month.		Number of certificates issued under section 15 (1).			Number of days on which the Board sat during the month.
				Dismissed under section 7 (1).		Agreements executed under section 12 (1).				Cases in which agreement has ceased to subsist.			Cases dismissed under section 14.						
											Amount in agreement.								
Number.	Amount involved.	Number.	Amount involved.	Number.	Amount involved.	Number.	Amount.	Amount due to those who agree.	Amount in agreement.	Number.	Original.	As compounded.	Number.	Amount.	Number.	Amount.	Number of cases.	Number of certificates.	Amount due to creditor against whom certificate is granted.	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21

FORM No. VI

Form of Certificate under section 13 (2) of the Central Provinces Debt Conciliation Act; 1933, as applied to Berar

[*Rule 43 of the Berar Debt Conciliation Rules, 1934.*]

This is to certify that every reasonable effort was made by me or under my orders to recover the arrears of the amount due from ..... of ..... to ..... of..... under agreement No. ..... registered at ..... on ..... by the Chairman of the Debt Conciliation Board, ... The amount of the arrear recovered is Rs. ..... and the irrecoverable balance is Rs. .....

Dated.....the.....day of.....193 .

(Seal of Deputy Commissioner.)

Signature of the Deputy Commissioner,
.....district.

FORM No. VII

Form of Certificate under section 15 (1) of the Central Provinces Debt Conciliation Act, 1933, as applied to Berar

[*Rule 44 of the Berar Debt Conciliation Rules, 1934.*]

This is to certify that during proceedings No..... of.....under the Central Provinces Debt Conciliation Act, 1933, as applied to Berar, between.....of ..... (debtor) on one hand and..... of..... (creditor) on the other hand, for the settlement of an alleged debt of Rs. .....the said creditor has, in our opinion, refused a fair offer of settlement made by the said debtor; which the said creditor ought reasonably to have accepted.

2. The following particulars of the debt were furnished by the said creditor under section 8 (1) of the Act.

[*Particulars.*]

Dated.....the.....day of.....193

(Seal of the Board.)

Signature of Chairman,
Debt Conciliation Board,
.....district.

GPN—655—RS—31-7-35—1,000.

CENTRAL PROVINCES ACT No. XI OF 1934

THE USURIOUS LOANS (CENTRAL PROVINCES AMENDMENT) ACT, 1934

X63: (2291) 84

3

[Published in the *Central Provinces Gazette*, dated the 11th May 1934.]

An Act to amend the Usurious Loans Act, 1918, in its application to the Central Provinces.

Preamble

WHEREAS it is expedient to amend the Usurious Loans Act, 1918, in its application to the Central Provinces, in the manner hereinafter appearing; [X of 1918.]

AND WHEREAS the previous sanction of the Governor General, required under sub-section (3) of section 80-A of the Government of India Act, has been obtained to the passing of this Act;

It is hereby enacted as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Usurious Loans (Central Provinces Amendment) Act, 1934.

(2) It extends to the whole of the Central Provinces.

(3) It shall come into force on such date as the Local Government may, by notification, direct.

Amendment of section 3 (1), X of 1918.

2. In sub-section (1) of section 3 of the Usurious Loans Act, 1918 (hereinafter referred to as the said Act), [X of 1918]—

(*a*) for the word "and" in clause (*a*), the word "or" shall be substituted; and

(*b*) for the words "the Court may exercise all or any of the following powers, namely, may", occurring after clause (*b*), the words "the Court shall exercise all or any of the following powers, namely, shall" shall be substituted.

Amendment of section 3 (2), X of 1918.

3. After clause (*a*) of sub-section (2) of section 3 of the said Act, the following provisos shall be inserted, namely:—

"(i) Provided that compound interest in excess of ten per cent on any loan made after such date, as the Local Government may, by notification, fix, shall be deemed to be excessive:

(ii) Provided further that, where in any suit the Court finds that the rate of interest exceeds twelve *per cent per annum* in the case of a secured loan or eighteen *per cent per annum* in the case of an unsecured loan or that there is a stipulation for rests at intervals of less than six months, it shall, until the contrary is proved, presume that such rate is excessive, but this provision shall be without prejudice to the powers of the Court under sub-section (1) where the Court is satisfied that the interest charged, though not exceeding twelve *per cent per annum* or eighteen *per cent per annum*, as the case may be, is excessive."

~~[Price—One Anna]~~

SPN—384—LS—31 5-34—1,258.

[*Price—Re. 0-0-6*]

S15 room

CENTRAL PROVINCES ACT No. XXXII OF 1936

THE CENTRAL PROVINCES REDUCTION OF INTEREST ACT 1936

4

TABLE OF CONTENTS

Preamble.

Sections

1. Short title, extent, commencement and duration.
2. Definitions.
3. Rate of interest.
4. Savings from the provisions of the Usurious Loans Act, 1918.
5. Crown not bound by this Act.

X63 : 11 : (2271)

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CENTRAL PROVINCES ACT No. XXXII OF 1936

THE CENTRAL PROVINCES REDUCTION OF INTEREST ACT, 1936

[Published in the Central Provinces Gazette, dated the 27th November 1936.]

An Act to make provision for the reduction of the rate of interest in respect of the debts of certain debtors in the Central Provinces.

Preamble.

WHEREAS it is expedient to give relief to certain debtors by reducing the rate of interest payable by them on debts within a certain period ;

AND WHEREAS the previous sanction of the Governor General, required under sub-section (3) of section 80-A of the Government of India Act, has been obtained to the passing of this Act ;

It is hereby enacted as follows :—

Short title, extent, commencement and duration.

1. (1) This Act may be called the Central Provinces Reduction of Interest Act, 1936.

(2) It extends to the whole of the Central Provinces.

(3) It shall come into force on such date and shall remain in force till such date, as the Local Government may, by notification, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) " creditor " means a person to whom a debt is owing, but shall not include a co-operative society being a society registered under the Co-operative Societies Act, 1912, or a land mortgage bank established under the same Act or any other enactment or a scheduled bank as defined in the Reserve Bank of India Act, 1934;

VI of 1912.

II of 1934.

(*b*) " debt " includes all liabilities owing by a person, in cash or kind, secured or unsecured, payable under a decree or order of a Civil Court or otherwise ;

(*c*) " interest " includes the return to be made over and above what was actually lent, whether the same is charged or sought to be recovered specifically by way of interest or otherwise ; and

(*d*) " secured debt " means a debt due to a creditor from his debtor for which the creditor holds a mortgage, charge or lien on the property of the debtor or any part thereof as a security for that debt.

Rate of interest.

3. (1) Notwithstanding the provisions of any law for the time being in force or any agreement or contract between the parties, no debtor shall be liable to pay interest to a creditor

on a debt incurred by him at a rate higher than that specified in the schedule for any period between the first of January 1932 and such other date as the Local Government may, by notification, appoint;

Provided that such rate of interest shall be liable to be increased by the percentage rate by which the rate of interest at which the Local Government is able to secure a loan exceeds 4 per cent.

(2) The rate of interest at which the Local Government is able to secure a loan shall be published by the Local Government for general information in such manner as it thinks fit.

(3) If a decree has already been passed on the basis of a debt and remains unsatisfied in whole or in part, the court which passed the decree shall, on the application of the judgment-debtor, amend it by reducing, in accordance with the provisions of sub-section (1), the amount decreed on account of interest.

(4) A decree amended in accordance with the provisions of sub-section (3) shall be deemed to bear the date of the original decree.

(5) Any amount already received by the creditor on account of interest in excess of that due under this section shall be credited towards the principal; but nothing in this section shall be deemed to entitle a debtor to claim refund of any part of the interest already paid by him.

Savings from the provisions of the Usurious Loans Act, 1918.

4. Nothing contained in the Usurious Loans Act, 1918, shall apply to any debt falling under section 3.

X 19

Crown not bound by this Act.

5. This Act shall not be binding on the Crown.

SCHEDULE

(*See section* 3.)

Amount of debt	Rate of interest		
	Compound interest per cent per annum with yearly rests	Simple interest per cent per annum on	
		Secured debt	Unsecured debt
Rs. 5,000 and under ..	7½	10	15
Over Rs. 5,000 ..	6	9	13

GPN—2514—LS—20-1-37—1 200.

X:9:(2291) S/S forma
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CENTRAL PROVINCES ACT No. V OF 1936

THE CENTRAL PROVINCES ADJUSTMENT AND LIQUIDATION OF INDUSTRIAL WORKERS' DEBT ACT, 1936

5

TABLE OF CONTENTS

Preamble.

Sections.

1. Short title, extent and commencement.
2. Definitions.
3. Presentation of liquidation petition.
4. Bar for entertainment of petition under the Provincial Insolvency Act, 1920.
5. Verification of liquidation petition.
6. Court to which liquidation petition may be presented.
7. Contents of liquidation petition.
8. Procedure for admission of liquidation petitions.
9. Procedure on admission of liquidation petitions.
10. Prohibition to apply for arrest of industrial worker and power of court to release industrial worker.
11. Procedure at hearing of liquidation petitions.
12. Power and procedure of court.
13. Abatement of proceedings on death of petitioner.
14. Dismissal of liquidation petition.
15. Order of adjudication and appointment of receiver.
16. Effect of order of adjudication.
17. Avoidance of voluntary transfer.
18. Avoidance of preference to certain creditors over other creditors.
19. Debts adjustable.
20. Determination of petitioner's debts.
21. Schedule of determined debts.
22. Procedure after determination of debts.
23. Encumbered industrial worker.
24. Realization of debts of encumbered industrial worker.
25. Making over proceeds of assets to secured creditor.
26. Distribution of proceeds of assets to creditors in order of priority and assignment of shares of surplus.

[Price—Annas Two]

Sections.

27. Execution of order under section 26 as decree of court of small causes.
28. Sums exempt from interest.
29. Recovery of debt due by encumbered industrial worker.
30. Bar of recovery of debt of industrial worker.
31. Cessation of industrial worker as encumbered industrial worker.
32. Display of lists of petitioners and encumbered industrial workers.
33. Concealment of any debt by industrial worker.
34. Power of court to cancel proceedings.
35. Appeal.
36. Limitation.
37. Penalty.
38. Penalty to encumbered industrial worker for obtaining credit.
39. Power to make rules.

CENTRAL PROVINCES ACT No. V OF 1936

THE CENTRAL PROVINCES ADJUSTMENT AND LIQUIDATION OF INDUSTRIAL WORKERS' DEBT ACT, 1936

[Published in the *Central Provinces Gazette*, dated the 10th April 1936]

An Act to provide for the adjustment and liquidation of the debts of industrial workers.

Preamble.

WHEREAS it is expedient to provide for the adjustment and liquidation of the debts of industrial workers;

AND WHEREAS the previous sanction of the Governor General required by sub-section (3) of section 80-A of the Government of India Act has been obtained to the passing of this Act;

It is hereby enacted as follows :—

Short title.

1. (1) This Act may be called the Central Provinces Adjustment and Liquidation of Industrial Workers' Debt Act, 1936.

Extent.

(2) It extends to the whole of the Central Provinces.

Commencement.

(3) This section shall come into force at once and the remaining provisions of this Act shall come into force in such local area and on such date as the Local Government may, by notification, direct.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(i) "assets" means all property owned by a person which could be attached under the Civil Procedure Code, 1908, in execution of a decree and, except where the context indicates otherwise, includes any sum realized by a court under this Act from the sale of any such property;

of 1908.

(ii) "adjusted debt" means the sum shown against the name of any creditor in the schedule prepared under section 21;

(iii) "average income" means the average monthly income of an industrial worker calculated on his total income from all sources during a period of twelve months preceding the month of the presentation of a liquidation petition under this Act;

(iv) " court " means the principal civil court of original jurisdiction and shall include a civil court specifically empowered by notification in this behalf by the Local Government;

(v) " creditor " includes a decree-holder, " debt " includes a judgment-debt and " debtor " includes a judgment-debtor;

(vi) " dependant ", in relation to an industrial worker means any of the following relatives, namely :—

(*a*) a wife, minor legitimate son and unmarried legitimate daughter, or a widowed mother; and

(*b*) if, during a period of twelve months preceding the month of the presentation of a liquidation petition, entirely dependant on the earnings of the industrial worker, a husband, a parent other than a widowed mother, a minor illegitimate son, an unmarried illegitimate daughter, a daughter legitimate or illegitimate if married and a minor or if widowed, a minor brother, an unmarried or widowed sister, a widowed daughter-in-law, a minor child of a deceased son, or, where no parent of the industrial worker is alive, a paternal grandparent;

(vii) " factory " means a factory as defined in the Factories Act, 1934; XXV of 1934.

(viii) "industrial establishment" means any establishment which the Local Government may, by notification, declare as an industrial establishment;

(ix) "industrial worker " means a person who is employed either by way of manual labour or on monthly wages in a factory, mine or industrial establishment and whose average income does not exceed fifty rupees, but shall not include a person who is employed for doing clerical work;

(x) "mine" means a mine as defined in the Indian Mines Act, 1923; IV of 19

(xi) " prescribed " means prescribed by rules made under this Act;

(xii) " property " includes any property over which or the profits of which any person has a disposing power which he may exercise for his own benefit;

(xiii) " secured debt " means a debt due to a creditor from his debtor for which the creditor holds a mortgage, charge or lien on the property of the debtor or any part thereof as security for that debt;

(xiv) " surplus " means, in the case of industrial worker having—

(*a*) no dependant, twelve times his average income,

(*b*) one dependant, nine times his average income, and

(*c*) more than one dependant, six times his average income ; and

(xv) other words and expressions shall have the meanings assigned to them in the Provincial Insolvency Act, 1920. [1920.

Presentation of liquidation petition.

3. Any industrial worker may present a petition for the liquidation of his debts (hereinafter called a liquidation petition), if his debts exceed the aggregate value of his assets and three times his average income and if he was, on the date of the presentation of a liquidation petition, an industrial worker for a period of not less than one year preceding such date.

Bar for entertainment of petition under the Provincial Insolvency Act, 1920.

4. No court shall entertain a petition under the Provincial Insolvency Act, 1920, to have an industrial worker adjudged an insolvent except where— [1920.

(i) such industrial worker is not entitled to present a liquidation petition under section 3, or

(ii) a liquidation petition presented by such industrial worker under section 3 has been dismissed under section 14 or the proceedings have been cancelled under section 34.

Verification of liquidation petition

5. Every liquidation petition shall be in writing and shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1908, for signing and verifying plaints. [1908.

Court to which liquidation petition may be presented.

6. Every liquidation petition shall be presented to the court having jurisdiction under this Act in any local area in which an industrial worker ordinarily resides or personally works for gain or, if he has been arrested or imprisoned, where he is in custody.

Contents of liquidation petition.

7. Every liquidation petition shall contain the following particulars, namely :—

(*a*) a declaration that the petitioning industrial worker (hereinafter referred to as petitioner) is entitled to present a liquidation petition ;

(*b*) a statement that he is willing but unable to pay his debts ;

(*c*) the place where he ordinarily resides or personally works for gain or, if he has been arrested or imprisoned, the place where he is in custody ;

(*d*) the court (if any) by whose order he has been arrested or imprisoned or by which an order has been made for the attachment of his property, together with particulars of the decree in respect of which any such order has been made;

(*e*) the amount and the particulars of all pecuniary claims against him, together with the names and residences of his creditors so far as they are known to, or can, by the exercise of reasonable care and diligence, be ascertained by him;

(*f*) the amount and particulars of all his property together with—

(i) a specification of the value of all such property not consisting of money;

(ii) the place or places at which such property is to be found; and

(iii) a declaration of his willingness to place at the disposal of the court all such property save in so far as it includes such particulars as are exempted by the Code of Civil Procedure, 1908, or by any other enactment for the time being in force from liability to attachment and sale in execution of a decree; V of 1908

(*g*) a statement showing the number of his dependants and his average income; and

(*h*) a statement whether the petitioner has on any previous occasion filed a liquidation petition and, where such a petition has been filed,—

(i) if such petition has been dismissed under section 14 or the proceedings have been cancelled under section 34, the reasons for such dismissal or cancellation,

(ii) if such petition has been allowed, concise particulars of the debts liquidated, including a statement whether any previous liquidation has been cancelled and, if so, the grounds therefor.

Procedure for admission of liquidation petitions.

8. The procedure laid down in the Code of Civil Procedure, 1908, with respect to the admission of plaints shall, so far as it is applicable, be followed in the case of liquidation petitions under this Act.

Procedure on admission of liquidation petitions.

9. (1) Where a liquidation petition has been admitted, the court shall make an order fixing a date for hearing the petition.

(2) Notice of the order under sub-section (1) shall be given to the creditors of the petitioner in such manner as may be prescribed.

Prohibition apply for arre industrial w and power of to release i trial worker.

10. A creditor, who has received notice of a liquidation petition presented by an industrial worker, shall not be entitled, from the date of the service of such notice, to apply to any court for the arrest of the petitioner in any suit or proceeding for the recovery of any debt proposed to be liquidated under the liquidation petition and if such petitioner is under arrest or imprisonment in execution of a decree of any court, the court making the order admitting the petition shall, notwithstanding anything contained in any other enactment for the time being in force, order his release on such terms as to security as may be reasonable and necessary.

Procedure hearing of lic tion petitions.

11. (1) On the day fixed for the hearing of a liquidation petition or on any subsequent day to which the hearing may be adjourned, the court shall require proof that the petitioner is entitled to present the liquidation petition :

Provided that he shall, for the purpose of proving his inability to pay debts, be required to furnish only such proof as to satisfy the court that there are *prima facie* grounds for believing the same and the court, if and when so satisfied, shall not be bound to hear any further evidence thereon.

(2) The court shall also examine the petitioner, if he is present, as to his conduct, dealings and property in the presence of such creditors as appear at the hearing and the creditors shall have the right to question him thereon.

(3) The court shall, if sufficient cause is shown, grant time to the petitioner or any of his creditors to produce any evidence which appears to it to be necessary for the proper disposal of the petition.

(4) A memorandum of the substance of the examination of the petitioner and of any other oral evidence given shall be made by the court and shall form part of the record of the case.

Power an cedure of co

12. Subject to the provisions of this Act, the court shall have the same powers and shall follow the same procedure, so far as may be, as a court invested with jurisdiction under the Provincial Insolvency Act, 1920.

V of 1920.

Abatement proceedings death of peti

13. If an industrial worker who has presented a liquidation petition under this Act dies, the proceedings in the matter shall abate.

Dismissal liquidation p

14. Where, for reasons to be recorded in writing, the court is not satisfied that a petitioner is entitled to present a petition under section 3, it shall dismiss the petition.

Order of cation and a ment of rece

15. If the court does not dismiss a liquidation petition, it shall make an order of adjudication, and may, at the same time or at any time afterwards, appoint a receiver for the property of the petitioner in accordance with the Code of Civil Procedure, 1908.

V of 1908.

ect of order of ication.

16. (1) On the making of an order of adjudication, the whole of the assets of the petitioner shall vest in the court or in a receiver and thereafter no creditor to whom the petitioner is indebted in respect of any debt adjustable under this Act shall have any remedy against the assets of such petitioner in respect of his debt or commence any suit or other legal proceeding except with the leave of the court and on such terms as it may impose.

(2) All assets which are acquired by or devolve on the petitioner after the date of an order of adjudication and before his discharge shall forthwith vest in the court or receiver and the provisions of sub-section (1) shall apply in respect thereof.

(3) An order of adjudication shall relate back to, and take effect from, the date of the presentation of a liquidation petition on which it is made.

ıidance of tary transfer.

17. Any transfer of his assets by an industrial worker not being a transfer made before and in consideration of marriage or made in favour of a purchaser or incumbrancer in good faith and for valuable consideration shall, if an order of adjudication is passed on a liquidation petition presented by him within two years after the date of the transfer, be voidable as against the receiver and may be annulled by the court.

ıdance of ence to cer- reditors over reditors.

18. Every transfer of assets, every payment made, every obligation incurred, and every judicial proceeding taken or suffered by any industrial worker, who is unable to pay from his own money his debts as they become due in favour of any creditor, with the intention of giving that creditor a preference over other creditors, shall, if an order of adjudication is passed on a liquidation petition presented by him within three months after the date thereof, be deemed fraudulent and void as against the receiver and shall be annulled by the court.

adjustable

19. All debts, except those incapable of being fairly estimated or demands in the nature of unliquidated damages, shall be adjustable under this Act.

rmination of ıer's debts.

20. (1) On making an order of adjudication, the court shall enquire into the amount of the petitioner's debts and may refuse to admit any debt shown by the petitioner or claimed by any creditor.

(2) In determining the amount of debts due, the court may exercise the powers conferred upon it by section 3 of the Usurious Loans Act, 1918: X of 1918.

Provided that no court shall allow on account of arrears of interest, exclusive of such interest as has already been paid, a sum greater than the principal of the debt.

Schedule of d termined debts.

21. After the court has determined the debts, it shall prepare a schedule in such form as may be prescribed showing—

(i) the amount of the debts so determined and the creditors to whom they are due;

(ii) the assets of the petitioner and their value as estimated by the court; and

(iii) the average income of the petitioner.

Procedure af determination debts.

22. (1) If the adjusted debts of the petitioner do not exceed the sum of the assets and the surplus, the court shall read out to the parties present the adjusted debts and the names of the creditors to whom they are due and shall discharge the petitioner.

(2) After a petitioner is discharged under sub-section (1), no sum shall be recoverable in any court in respect of any debt then owed by him, with the exception of the adjusted debts and simple interest on such debts at a rate not exceeding six per cent per annum from the date of discharge.

(3) The entry of a debt in the schedule prepared under section 21 shall, in any civil proceeding, be conclusive proof that sum was due to that creditor from the petitioner at the date on which such schedule was signed by the court.

Encumbered dustrial worker.

23. (1) If the total adjusted debts of a petitioner exceed the sum of his assets and the surplus, the court shall issue a declaration that the petitioner is an encumbered industrial worker.

(2) The court shall at the same time read out to the parties present the names of the creditors with the adjusted debts due to them and shall discharge the claims of those creditors to whom no debts have been found due on adjustment.

Realization debts of encumb ed industrial worl

24. The court shall realize the assets of every petitioner in respect of whom a declaration has been issued, under sub-section (1) of section 23, that he is an encumbered industrial worker.

Making over p ceeds of assets secured creditor

25. (1) After realizing the assets of an encumbered industrial worker under section 24, the court shall make over the proceeds of any assets on which, or any part of which, a creditor holds a mortgage, charge or lien to such creditor, up to the amount of the adjusted debts due to him from the encumbered industrial worker.

(2) If the amount realized under sub-section (1) is in any case insufficient to meet the adjusted debts due to the secured creditor, he shall rank in respect of the remainder of the debts due to him as an unsecured creditor.

Distribution of proceeds of assets among creditors in order of priority and assignment of shares of surplus.

26. (1) After taking any action required by section 25, the court shall distribute the proceeds of the assets available for the unsecured creditors to those creditors in proportion to the adjusted debts due to them and shall make an order in such form as may be prescribed assigning a share of the surplus, not exceeding one thirty-sixth of the surplus in any one month payable on the specified dates to the creditors in order of priority.

(2) In determining the order of priority among the creditors, the court shall have regard to the date of incurring the debts, the purposes for which they were incurred and any other circumstances which it regards as conferring a claim to priority.

Execution of order under section 26 as decree of Court of Small Causes.

27. Every creditor whose claim has not been discharged shall be supplied with a copy of the order made under subsection (1) of section 26 and such order may be executed by that creditor in any appropriate civil court in respect of any share of the surplus assigned to him as though it were the decree of a Court of Small Causes bearing the date of the order:

Provided that it shall not be necessary to certify payment through the court until the judgment-debtor has had notice of execution:

Provided further that no such order shall be capable of execution more than three years after the date of the order.

Sums exempt from interest.

28. Sums due under an order issued under section 26 shall carry no further interest.

Recovery of debt due by encumbered industrial worker.

29. No sum shall be recoverable otherwise than in accordance with sections 23, 24, 25, 27 and 28 in respect of any debt entered in the schedule prepared under section 21 in respect of any person declared to be an encumbered industrial worker.

Bar of recovery of debt of industrial worker.

30. No debt incurred by any industrial worker, while he is an encumbered industrial worker, shall be recoverable in any court.

Cessation of industrial worker as encumbered industrial worker.

31. (1) The court may, at any time before the expiry of thirty-seven months from the date of its order under section 26, if it is satisfied that an encumbered industrial worker has paid the sums specified in that order, declare that he has ceased to be an encumbered industrial worker.

(2) On such a declaration being made or on the expiry of thirty-seven months from the date of the order under section 26, whichever is earlier, the industrial worker shall cease to be an encumbered industrial worker.

Display of lists of petitioners and encumbered industrial workers.

32. The court shall cause to be displayed at all times during court hours in a part of the court house to which the public have access—

(*a*) a list of all petitioners whose liquidation petitions are pending in the court, giving their addresses and

the dates of their petitions and the dates on which these petitions will be heard ;

(*b*) a list of all industrial workers who are encumbered industrial workers, giving their addresses and the dates on which they are declared to be encumbered industrial workers.

Concealment any debt industrial worke

33. If an industrial worker conceals any debt, the creditor to whom such debt is due may apply to the court for a declaration that any proceedings instituted by such industrial worker are not applicable to that debt, and on such a declaration being given the creditor shall have all the rights in respect of such debt that he would have had if the proceedings were not instituted, except that he shall have no claim against any assets realized and distributed.

Power of cou cancel proceed

34. The court may, at any time for reasons to be recorded in writing, cancel the proceedings on grounds relating to the conduct of the petitioner, and if a liquidation petition is proved to be false in any material particular, the court may declare that the petitioner is not entitled to any further relief under this Act, in which case no further petition from him shall be considered.

Appeal.

35. (1) Any petitioner or creditor aggrieved by any order of the court under sub-section (1) of section 20 or section 26 or section 34 may, within thirty days from the date of such order, appeal to the court ordinarily hearing appeals from a decision of such first mentioned court.

(2) On admission of an appeal under sub-section (1), the court shall pass such order thereon as it thinks fit, and this order shall be final and shall not be subject to revision.

Limitation.

36. In calculating the period of limitation for any suit or application which might have been brought or made but for proceedings under this Act, the period from the date of presentation of a liquidation petition under this Act to the date the proceedings thereunder terminate shall be excluded.

Penalty.

37. If an industrial worker, whether before or after the making of an order of adjudication,—

(*a*) wilfully fails to deliver up to the court or to any person authorized by it in this behalf possession of any part of his assets which are realizable by the court under this Act and which are for the time being in his possession or under his control, or

(*b*) fraudulently with intent to conceal the state of his affairs or to defeat the objects of this Act,—

(i) has destroyed or otherwise wilfully prevented or purposely withheld the production of any document relating to such of his affairs as are subject to investigation under this Act, or

(ii) has kept or caused to be kept false account books or

(iii) has made false entries in or withheld entries from or wilfully altered or falsified any document relating to such of his affairs as are subject to investigation under this Act, or

(c) fraudulently with intent to diminish the sum to be distributed among his creditors or to give an undue preference to any of his creditors,—

(i) has discharged or concealed any debt due to or from him, or

(ii) has made away with, charged, mortgaged or concealed any part of his assets,

he shall be punishable, on conviction, with imprisonment which may extend to one year.

Penalty to encumbered industrial worker for obtaining credit.

38. (1) An encumbered industrial worker obtaining credit to the extent of fifty rupees or upwards from any person without informing such person that he is an encumbered industrial worker shall, on conviction by a Magistrate, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two hundred rupees or with both.

(2) Where the court has reason to believe that an encumbered industrial worker has committed the offence referred to in sub-section (1) the court, after making such preliminary inquiry as may be deemed fit, may send the case for trial to the nearest Magistrate of the first class and may send the accused in custody or take sufficient security for his appearance before such Magistrate and may bind over any person to appear and give evidence on such trial.

Power to make

39. (1) The Local Government may, after previous publication, make rules for the purpose of carrying into effect all or any of the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, the Local Government may make rules—

(a) prescribing the manner of giving notice under sub-section (2) of section 9,

(b) prescribing the form in which a schedule shall be prepared under section 21,

(c) prescribing the form in which a statement shall be prepared under sub-section (1) of section 26,

(d) prescribing the form in which an order shall be made under sub-section (2) of section 26, and

(e) generally for the purpose of carrying into effect the provisions of this Act.

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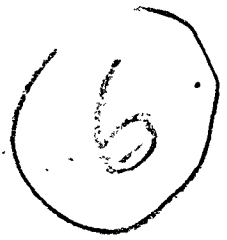

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REPORT OF THE WORK DONE BY THE DEBT CONCILIATION BOARD, KHURAI, IN THE SAUGOR DISTRICT

[*July 1933 to January 1935.*]

REVIEW

Nagpur, the 19th March 1935.

No. 1058-539-XII.—Government has read with interest the final report of the work done by the Debt Conciliation Board, Khurai, in the Saugor district. It was established in the month of July 1933 with Rai Sahib Thakur Chhattra Singh as Chairman and four representatives of moneylenders, landlords and tenants as members. Subsequently in the month of April 1934, three more members were added to enable the board to cope with the growing volume of work. The operations of the board were concluded on the 19th January 1935. During this period of a year and a half, 2,790 applications involving debts amounting to Rs. 30.67 lakhs, were received. Of these 368 applications involving Rs. 3.72 lakhs were dismissed under section 7 (1) of the Act and 726 applications, involving Rs. 11 lakhs, were dismissed under section 14, as no settlement could be arrived at with the creditors. Certificates under section 15 (1) declaring that the creditors had unreasonably refused amicable settlement were issued in 901 cases for debts aggregating Rs. 12.96 lakhs. It is gratifying to note that agreements under section 12 (1) were executed in 1,693 cases for debts aggregating Rs. 16.17 lakhs. The latter were conciliated for a sum of Rs. 8.37 lakhs resulting in a remission of 48.3 per cent of the demand. Claims amounting to Rs. 74,000 were also discharged for not submitting accounts or submitting them after the prescribed period of two months.

2. The Chairman in his report has stated that the parties generally were amenable to reasonable settlement except that creditors holding mortgages and decrees were reluctant to agree to reductions, being conscious that they could recover their claims in spite of any settlement by the board. He estimates, however, that about 20 per cent of the secured debt did come under agreement. In some cases the board also successfully advised debtors to transfer mortgaged property or part thereof to satisfy debts which could not have been liquidated otherwise. It is reported that a certain amount of private conciliation of debts has also been carried out in this area under the pressure of the existence of the board. Care was taken by the board to ensure that the instalments fixed for the repayment of settled claims did not exceed the annual paying capacity of the debtors and in no case has interest been allowed in addition to the instalment. Out of an amount of Rs. 15,808 payable as instalments on the 1st May 1934 an amount of Rs. 5,067 or roughly one-third had to be realized coercively through the revenue authorities. Though in a normal year this proportion would appear high, considering the history of this tract and the damage done to the wheat crop in the year under report, the result cannot be said to be unsatisfactory.

3. There is no evidence to indicate that the operations of the board have resulted in any appreciable restriction of agricultural credit for current needs.

4. Government agrees with the Commissioner that taking into consideration the difficult conditions in the Khurai tahsil the board has achieved a very considerable measure of success. The Governor in Council is pleased to record his appreciation of the excellent work done by Rai Sahib Thakur Chhattra Singh and takes this opportunity of acknowledging publicly the valuable service rendered by the non-official members of the board. Special commendation is due to Messrs. Krishna Chandra Sharma, Sadasheo Rao and Shankar Rao who were assiduous in their attendance and contributed much to the success of the work done.

By order of the Governor in Council,
R. N. BANERJEE,
Revenue Secretary to Government,
Central Provinces.

OFFICE OF THE COMMISSIONER, JUBBULPORE DIVISION

No. Q, dated Jubbulpore, the 5th February 1935.

Forwarded. Taking into consideration the difficult conditions in the Khurai tahsil, it can be hoped that the board has achieved a very considerable measure of success.

2. I agree with the Deputy Commissioner that Rai Sahib Thakur Chhattra Singh has done excellent work. I also agree with his recommendation that commendation certificates should be issued to the non-official members of the board who have devoted so much of their time and energies during the last 18 months to this very useful form of public service.

A. L. BINNEY,
Commissioner,
Jubbulpore Division.

Endorsement on Half-yearly report on the working of the Debt Conciliation Board, Khurai, for the period from the 1st October 1934 to 19th January 1935, by the Deputy Commissioner, Saugor.

No. 24-B-35, dated Saugor, the $\frac{31st\ January\ 1935}{1st\ February\ 1935}$

Forwarded to the Secretary to Government, Central Provinces, Revenue Department, through the Commissioner, Jubbulpore Division, Jubbulpore, for information. This is the final report on the work of the Debt Conciliation Board at Khurai which has now closed its office. The report is interesting and a few forwarding remarks may not be out of place. I have recently toured through a great part of the Khurai tahsil and have also discussed at length the working of the board with the chairman and the members of the board and also with a large number of malguzars and tenants in the interior of the tahsil. Everywhere I have found that there is a general recognition of the great advantage to the tahsil from the work which has been done by the Khurai Debt Conciliation Board. The provisions of the Debt Conciliation Act are now well known to every moneylender in this district, and to a large number of the indebted agricultural classes and I have been surprised with the familiarity with which cetrain sections of the Act, *e.g.*, section 8 (2) and section 15 (3), are quoted by malguzars and tenants in ordinary conversation. Apart from the actual conciliation proceedings I have been informed that in a number of cases moneylenders have persuaded their debtors not to make applications, or to withdraw applications made, by the promise of private conciliation and I understand that a certain amount of private conciliation of debts has under pressure of the existence of the board been carried out. I am separately submitting proposals for the establishment of a second conciliation board at Saugor. Unquestionably it can be said that the successful working of the Khurai Board has led to a very unanimous demand in the district for the extension of its activities to the other parts of the old Saugor district and to the Damoh Sub-Division. The difficulties under which the Khurai Board worked will to a considerable extent be removed by the amending Bill which has now passed into law. This amendment will greatly strengthen the hands of the chairman of the new board in securing a more reasonable attitude from moneylenders to the conciliation proceedings. I have been shown at Khurai a number of cases in which, when examined, the creditors agreed to the proposed conciliation and subsequently resiled when the proposals were placed before them for signature in the form of an agreement. As a means to counteract this tendency I am arranging for the printing up locally of the standard agreements and for a petition writer to be present throughout the proceedings at the building in which the conciliation work is being carried on. It will be the business of the chairman to see that the agreement is drawn up immediately after acceptance of its terms and then and there signed by the creditor and debtor before the next case is taken up and before either of the parties leave the building. At Khurai the chairman has only made a sparing use of the drastic provisions of section 8 (2) of the Act and the moneylenders of

the district are now well aware of its terms. Certain recent decisions in the civil court have also had a remarkably salutary effect locally in this respect.

2. I have already drawn attention to the excellent work which has been done by Rai Sahib Thakur Chhattra Singh in the difficult conditions which characterized his work at Khurai. I have heard much praise locally of the industry and persuasive tact which he has displayed and to cite one admirer "during the sitting of the court his mouth was never closed". Of the other members of the board the three most prominent have been—

1. Mr. Krishna Chandra Sharma.
2. Pandit Sadasheo Rao.
3. Pandit Shankar Rao.

These gentlemen have been assiduous in their attendance at the meetings and have contributed much to the success of the work done. I would support the recommendation of the chairman that commendation certificates should be issued with as little delay as possible, to all six members of the board and would recommend that they should be issued either under the signature of the Commissioner or as from the Local Government and be of a superior type of printing. A certificate should also be issued to the Sub-Registrar Puranchand Dhagat who has had to work for 10 to 12 hours daily during most of the time that the board has been in existence. I do not know if Government would consider it a suitable suggestion that a resolution summarizing the working of the Khurai Board should be issued.

3. Attention is also drawn to the provisions of section 19 of the Act. Certain applications for review of orders have been received and may be expected, *e.g.*, cases occur both of review and for permission to execute agreements in cases which have been settled but in which up to now no agreement has been executed. The period during which such applications may be received will extend till 22nd April next. I would recommend that the chairman of the Saugor Board should be given power to review under section 19 in regard to orders of the Khurai Board to be exercised by him sitting with the members of the Khurai Board.

R. M. CROFTON,
Deputy Commissioner,
Saugor.

HALF-YEARLY REPORT ON THE WORKING OF THE DEBT CONCILIATION BOARD, KHURAI, FOR THE PERIOD FROM THE 1ST OCTOBER 1934 TO 19TH JANUARY 1935

During the period of about 3½ months the board worked for 73 days only. In the beginning of this period there were 498 cases pending for disposal, fresh applications having ceased to be presented in the previous month. Of these 47 cases

involving a claim of Rs. 60,007 were dismissed under section 7 (1) for default of applicants, non-payment of process-fee or other causes. 108 applications were dismissed as no amicable settlement was arrived at. In 16 cases claims of creditors amounting to Rs. 7,987 were deemed to have been discharged under section 8 (2) as the creditors failed to submit their accounts or submitted them after the period of two months. Agreements were executed in 341 cases including 14 cases restored to file. All cases are disposed of. Certificates under section 15 (1) were issued in 175 cases.

2. The amount involved in the 108 cases dismissed under section 14 was Rs. 1,42,532. Nearly a lac of rupees claim was covered by 14 cases and the creditors would not agree to any reasonable settlement. The creditors held mortgages in 14 cases and decrees in 22 cases. In other cases involving small claims the creditors were similarly adamant in their attitude. Partial agreement was also not possible.

3. The amount involved in 341 cases settled under section 12 (1) was Rs. 3,78,148 and this claim was reduced to Rs. 1,72,320 under agreement. The percentage on the total demand comes to 45.5. In 58 cases mortgage claims were also settled and similarly in 93 cases decretal claims were included in the agreement: In three cases property—house, land and share of a village—was transferred by sale to conciliate debts.

4. The amount of unsettled claims for which certificates under section 15 (1) are issued is Rs. 2,01,563. The practice of first accepting settlement and then going behind it by certain creditors continued till the end. Such creditors exploited the debtors to agree to pay them cash, cattle or registration fee in addition to the amount entered in the agreement. This necessitated removal of their names from the agreement and registering it for the remaining claim if it covered 40 per cent of the total debt. Sometimes agreements had to be cancelled.

General review of the operations from the commencement of the Board

5. Since the commencement of the board applications for conciliation of debts amounting to Rs. 30.67 lakhs were received. Applications covering debts of Rs. 3.72 lakhs were dismissed under section 7 (1) for default or non-payment of process-fee. Against the remaining claim of Rs. 26.95 lakhs settlement was arrived at for a claim of Rs. 16.17 lakhs. This amount was conciliated for a sum of Rs. 8.37 lakhs. The actual percentage on the total debt was Rs. 51.7. If we take into consideration the amount of claim Rs. .71 lakh discharged under section 8 (2) for not submitting accounts or submitting them after two months, the percentage would fall to 43.04. The applications covering a claim of 11 lakhs had to be dismissed under section 14 for refusal of the creditors. 726 applications were dismissed under section 14 while the number settled under section 12 (1) was 1,693. This will show that 70 per cent of the cases has been settled. The amount of the unsettled cases is no doubt large as large amounts are secured under mortgages or decrees. It may be noted here that even though some creditors were willing

to accept settlement but as their claims had fallen short of 40 per cent of the total debt no agreement could be executed and this amount is also included in 11 lakhs.

6. Ordinarily the creditors holding mortgages and decrees were reluctant to accept settlement as they knew that they could recover their claims irrespective of the operation of the board. Section 15 (3) did not apply to mortgage debts though there was some anomaly in section 21 that such debt would not be recovered until other debts in the agreement have been satisfied. The unsecured creditors holding decrees similarly carried the impression that, after the disposal of the applications before the board, they could execute their decrees and recover their claims without any hindrance and there was no question of loss of costs in their case. Taking this view of their claims they had refused to settle in many cases. The amendment to section 21 now under legislation has made matters much clear and some civil court decisions, postponing execution of decrees under the provision of section 21, had induced such creditors to join the agreement but this was at a later stage. Roughly it is presumed 20 per cent of the secured debt has come under agreement. This was possible as amongst the creditors there are few who were ready to realize the economic depression, the difficulty of collecting their dues under ordinary decrees and the futility of managing small shares and losing money on suits.

7. In some cases the board has successfully advised the debtors to transfer mortgaged property or part thereof to satisfy large debts which could not have been paid otherwise. A large number of decretal claims has also come under agreement. One could not be sure what the creditors would state even after the decisions given by civil courts against them in similar instances. They evinced sentimental reasons in refusing fair offers. Some counted on realizing from sureties and some wanted to retain the services of farm servants without liberating them from their debts. Similar attitude was shown towards other village servants such as carpenters, smiths and kotwars.

8. In this tahsil most of the moneylenders come from Jain community and they are often found to be unreasonable towards their debtors. They aim at obtaining the property of the debtor without caring what hardship he will be put to afterwards. Without the aid of legislation they are hard to tackle. Because of this community a greater success than what is achieved could not be shown.

9. With the passing of the Usurious Amendment Act and Moneylenders Act there is every probability that the debts of the agriculturists would be much lessened in the ordinary courts, for those who have not submitted their applications before the board. The reason why they did not submit applications appear to be that many creditors and malguzars dissuaded them from doing so or that they settled with them in their own way. It is also said they warned them that they could not expect any other help from them. Another reason was that they could not afford to stand the expenses of summoning creditors with doubtful result whether the creditor would or would not accept their offer.

10. By the conciliation proceedings the debtors have really derived immense benefit. Apart from reduction of their debts, instalments are fixed within their paying capacity and they have not to pay any future interest. For the creditors, they will be able to recover their instalments promptly either with or without the help of the Deputy Commissioner. Recoveries under decrees during this period of depression have been very unsatisfactory and many other incidents had occurred and they should welcome the help of the revenue authorities they get under the provision of the Debt Conciliation Act. If the creditors had realized full significance of this help they should have been more ready to take advantage of it. Their shortsightedness limited the scope of that advantage to them. The amount payable on the 1st May 1934 under agreements was Rs. 15,808 and against this claim Rs. 5,067 had to be realized through the Tahsildar on 255 applications presented to the Deputy Commissioner. Rs. 3,206 was already collected and steps are being taken to recover the balance. The difficulty in collection arose owing to damage to crops in the last season. It would appear that the debtors are making efforts to pay their instalments in most cases voluntarily. The pressure that has been put on some recalcitrant debtors would open the eyes of others to meet their obligations without recourse to coercive process.

11. The debtors of this tahsil were heavily indebted far beyond their paying capacity. With conciliation of their debts they will find it difficult to some extent to get fresh loans for the time being from their old creditors. As they get reconciled the creditors are bound to deal with them as they cannot close their business and take to other avenues of making money. It is the cultivators who were paying them high rate of interest. So far there is no indication that the cultivators are unable to get their seed or other agricultural need. It would, however, be better if a mortgage bank can be established to give help to the cultivators at a cheap rate of interest.

12. There were following members of the board and they attended the work of the board fairly regularly and tried to help according to their ability to achieve the best result possible. Amongst them particularly the first three may be mentioned :—

Pandit Krishnachandra Sharma, Pandit Sadashiv Rao, Pandit Shankar Rao, Hiralal, Bhagwan Singh and Jhalloo Singh.

I would recommend that in view of the public work rendered by them suitable certificates may be given.

The Sub-Registrar, Puranchand Dhagat, has also given much help in promptly registering agreements and in bringing to notice any mistakes with a veiw to their correction and registration within the prescribed time.. His co-operation was very valuable.

The second part of the report and necessary statements are attached herewith.

THAKUR CHHATTRA SINGH,
Chairman.

KHURAI :
The 24th January 1935.

Forwarded to the Secretary to the Government, Central Provinces, Revenue Department, Nagpur, through the Deputy Commissioner, Saugor, for information.

THAKUR CHHATTRA SINGH,
Chairman.

KHURAI :
The 25th January 1935.

DIFFICULTIES EXPERIENCED IN WORKING THE ACT, AND AMENDMENTS, IF ANY, THAT APPEAR TO BE NECESSARY TO THE ACT OR THE RULES

The Debt Conciliation Act has been in force in Khurai tahsil for about one and a half year and during this period number of cases cropped up in civil courts and I understand various interpretations were given by the original and appellate courts to the wordings of the Act. Some of these are given below—

Section 2 (e).—Although the word "debt" has been elaborately defined here but it was the subject of discussion in the civil courts, especially in village profit suits. In a case where a debtor co-sharer applied to the board for settlement of his debts, the Lambardar of the village was one of his creditors. He submitted his accounts but excluded his claim of three years village profits due by the debtor. After the disposal of his application before the board the creditor filed a suit for arrears of village profit and not for land revenue; the debtor objected to the maintainability of the suit on the ground that the Lambardar did not submit his account of profits before the board and, therefore, this debt must be deemed to have been discharged under section 8 (2) of the Act. The suit not being for collection of land revenue but for village profits—in which land revenue figures as an item of expenditure—it cannot be excepted from the definition of debt. The civil court held it not to be a debt on the ground that unless the Lambardar explained the account to the co-sharer there is no liability nor any such existed when he submitted his accounts before the board. This interpretation of the court does not appear to me free from fault inasmuch as under section 188 (*c*) of the Land Revenue Act the Lambardar had to render an account to the co-sharer within six months of the close of the agricultural year.

In another case a co-sharer filed a suit for village profits against his Lambardar. There is no question of the recovery of land revenue in this case as the Lambardar is alone concerned about the recovery or payment of land revenue. The suit was only for rendition of accounts of profits which the Lambardar was bound to furnish within six months of the close of an agricultural year, and to pay or take whatever is due to a co-sharer or by him. It is, therefore, a liability owing to the co-sharer by the Lambardar and as such it would fall under section 2 (*e*). The Saugor civil court, I am told, held it was not a

debt and as such the provision of the Debt Conciliation Act did not apply. If this be the correct interpretation of the word "debt" as held by Khurai and Saugor courts there would arise an anomaly. Section 15 (3) would not be held to be applicable to such decrees obtained for village profits or account suits. Such decree-holders would be free to execute their decrees even after registration of an agreement and obtain the property of the debtor in execution sale to the prejudice of those creditors who amicably settled with him. In sections 160 (1), 156 and 157 of the Land Revenue Act it would appear that a distinction is drawn between the two sorts of sums, one for recovery of that payable under settlement and the other for the recovery of any sum payable towards the share of village profits. It would, therefore, appear necessary to make it clear whether the term "debt" should be deemed to include liability under the village accounts or profit suits.

Although the execution of rental decrees are excepted from the purview of section 15 (3) according to the Amendment Bill No. 1 of 1935 there will be still an anomaly if rent is not excluded from the definition of the term "debt". Rental arrears if not converted into decrees and if the malguzars fail to include them in their statement of account after service of notice under section 8 (1), will be deemed to have been discharged under the operation of section 8 (2). To avoid this possibility of loss to the malguzar it would appear advisible to amend the definition of "debt" by adding the words "rent" or after the words "but shall not include arrears of" in the 4th and 5th line of clause (*e*) to section 2.

Section 6 (2).—Refers to an application by a creditor alone. In practice it has been seen that creditors generally apply where the debtor is very poor and cannot be expected to make an application. On the application of the creditor the debtor is summoned besides publication of notice under section 8 (1) in the village. If no other creditor submits his account of claim on such proclamation an agreement is executed between the creditor applicant and the debtor for the former's claim. There is no procedure laid down in the Act that other creditors of the debtor should be noticed at the cost of the creditor who applies if the debtor is unable to do so. It would not be equitable to deem the debt of the creditors who receive no notices to be discharged under section 8 (2). If they are free to recover their claims irrespective of the agreement already executed the debtor would be in a worse position. If thought desirable some procedure may be laid down in the Act in this behalf.

Section 8 (2).—The wordings of this sub-section are not clear, who should pass an order of discharge whether the board or the civil court. It merely says that the debt shall be deemed to have been discharged. I am told in one appeal it was contended that the board has no power to pass an order of discharging the debt from all liability. It is the civil court alone who has to find out whether the

provisions of section 8 (1) had been complied with; and if it finds that they had been complied with then the civil court will pass an order discharging the debtor from all liability. To my mind the proviso to his sub-section as also clause (iv) to section 16 (*a*) make it fairly clear that the Board is empowered to pass such an order. In order to avoid this controversy the following words may be added to section 8 (2) "and the board shall pass an order to that effect".

Section 12 (2).—In the matter of executing agreements the common difficulty experienced is that some creditors even after signing their willingness to accept a certain sum payable in certain instalments on their statements haggle on with the debtor outside the office either to pay or agree to pay something over and above the amount to be included in the agreement before signing it. It has not infrequently happened that agreements were not fully completed forthwith because of the defection of such creditors and it had to wait for a long time. This is an awkward situation which cannot be easily overcome, and my first suggestion that when they state their willingness to certain term of agreement, they should be made to fulfil it without a free hand to resile from it, should be taken into consideration. If the debtors were to go to the civil court to file a declaratory suit on such statement they are sure to get such agreement executed. But this is not feasible in the case of poor debtors who cannot sue on a ten-rupee court-fee stamp.

Section 15.—This section has been interpreted in different ways by the civil court as to costs to be disallowed or not under sub-section 2. The question which arose in the civil courts was whether a creditor who brings a suit before an application is made by his debtor before the board should be deprived of his costs if he does not agree to a fair settlement before the board. The appellate court held that he could not be deprived of the cost of the suit, as he filed the suit before an application was made by the debtor before the board, and section 15 (2) would not apply to it taking the meaning of the word "sues" as "files a suit". The lower court had held that "sues" means not only filing the suit but the prosecution of the suit and so the creditor should be penalized for refusing to come to an amicable settlement. This latter interpretation was held to be correct on a reference made to the Judicial Commissioner's Court. This is an advantage to the debtor.

Section 15 (3) and section 21.—The various anomalies that had been noticed before in the application of the provisions of these sections are now set at rest by the amended section 21 now under legislation:

No amendment is proposed in the rules.

THAKUR CHHATTRA SINGH,
Chairman.

KHURAI :
The 25th January 1935.

STATEMENTS

Progress return showing the work done by the Debt Conciliation Board,

Cases pending at the beginning of the period		Cases registered during the period		Cases disposed of					
				Dismissed under section 7 (1)		Agreements executed under section 12 (1)			
Number	Amount	Number	Amount	Number	Amount	Number	Amount	Amount to those who agree	Amount in agreement
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
	Rs.		Rs.		Rs.		Rs.	Rs.	Rs.
498	5,46,017	..	..	47	60,007	341	3,43,013	3,78,148	1,72,320

NOTES.—(1) The claim in 16 cases Rs. 7,987 was
(2) 14 cases were

Progress return showing the work done by the Debt Conciliation Board,

Cases pending at the beginning of the period		Cases registered during the period		Cases disposed of					
				Dismissed under section 7 (1)		Agreements executed under section 12 (1)			
Number	Amount	Number	Amount	Number	Amount	Number	Amount	Amount due to those who agree	Amount in agreement
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
	Rs.		Rs.		Rs.		Rs.	Rs.	Rs.
..	..	2,790	30,67,236	368	3,72,177	1,693	15,89,217	16,17,275	8,36,849

NOTES.—(1) The claims in 16 full cases Rs. 7,987 were discharged under section 8 (2)
(2) 13 cases having amount Rs. 2,372

Dated the 24th January 1935.

Khurai, for a period from 1st October 1934 to 19th January 1935.

during the period

Cases in which agreement has ceased to subsist			Dismissed under section 14		Cases pending at the close of the period		Number of certificates issued under section 15 (1)			Number of days on which the Board sat during the period
Number	Amount in agreement		Number	Amount	Number	Amount	Number of cases	Number of certificates	Amount due to creditor against whom certificate is granted	
	Original	As compounded								
(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)
				Rs.		Rs.			Rs.	
..	..	..	108	1,42,532	..	..	175	175	2,01,563	73

Discharged under section 8 (2) Debt Conciliation Act.
Restored to file.

Khurai, for a period from 3rd July 1933 to 19th January 1935.

during the period

Cases in which agreement has ceased to subsist			Dismissed under section 14		Cases pending at the close of the period		Number of certificates issued under section 15 (1)			Number of days on which the Board sat during the period
Number	Amount in agreement		Number	Amount	Number	Amount	Number of cases	Number of certificates	Amount due to creditor against whom certificate is granted	
	Original	As compounded								
(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)
				Rs.		Rs.			Rs.	
..	..	..	726	11,00,227	..	..	901	901	12,96,251	416

Debt Conciliation Act and Rs. 68,184 in partially settled cases.
were restored to file.

THAKUR CHHATTRA SINGH,
Chairman.

Statement showing the total number of days of attendance of the members of the Debt Conciliation Board, Khurai.

Name of each member	Date of first appearance	Date of last appearance	Total No. of days of attendance
Pandit Krishna Chandra Sharma ..	3rd July 1933 ..	19th January 1935 ..	257
Pandit Sadasheo Rao ..	3rd July 1933 ..	19th January 1935 ..	279
Thakur Jhalloo Singh ..	3rd July 1933 ..	19th January 1935 ..	338
Singhai Ganpatlal* ..	3rd July 1933 ..	15th April 1934 ..	153
Pandit Shankar Rao ..	30th April 1934 ..	16th January 1935 ..	96
Thakur Hiralal ..	11th April 1934 ..	16th January 1935 ..	86
Thakur Bhagwan Singh ..	14th April 1934 ..	16th January 1935 ..	92

*Resigned on 15th April 1934.

THAKUR CHHATTRA SINGH,

Chairman,

Dated the 25th January 1935.

Debt Conciliation Board,

Khurai.

GPN—2285-M—RS—10-12-36—25

X63:11:(2291) 96

CENTRAL PROVINCES ACT No. XXXII OF 1936

THE CENTRAL PROVINCES REDUCTION OF INTEREST ACT, 1936

[This Act was brought into operation in the Central Provinces on the 1st January 1937 and in Berar on the 15th January 1937 and will remain in operation for three years.]

An Act to make provision for the reduction of the rate of interest in respect of the debts of certain debtors in the Central Provinces.

Preamble.

WHEREAS it is expedient to give relief to certain debtors by reducing the rate of interest payable by them on debts within a certain period;

AND WHEREAS the previous sanction of the Governor-General, required under sub-section (3) of section 80-A of the Government of India Act, has been obtained to the passing of this Act;

It is hereby enacted as follows:—

Short title, extent, commencement and duration.

1. (1) This Act may be called the Central Provinces Reduction of Interest Act, 1936.

(2) It extends to the whole of the Central Provinces.

(3) It shall come into force on such date and shall remain in force till such date, as the Local Government may, by notification, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "creditor" means a person to whom a debt is owing, but shall not include a co-operative society being a society registered under the Co-operative Societies Act, 1912 (II of 1912), or a land mortgage bank established under the same Act or any other enactment or a scheduled bank as defined in the Reserve Bank of India Act, 1934 (II of 1934);

(*b*) "debt" includes all liabilities owing by a person, in cash or kind, secured or unsecured, payable under a decree or order of a Civil Court or otherwise;

(*c*) "interest" includes the return to be made over and above what was actually lent, whether the same is charged or sought to be recovered specifically by way of interest or otherwise; and

(*d*) "secured debt" means a debt due to a creditor from his debtor for which the creditor holds a mortgage, charge or lien on the property of the debtor or any part thereof as a security for that debt.

Rate of interest.

3. (1) Notwithstanding the provisions of any law for the time being in force or any agreement or contract between the parties, no debtor shall be liable to pay interest to a creditor

[Pages 86 and 87 inserted by amendment No. 2, dated the 21st May 1937.]

on a debt incurred by him at a rate higher than that specified in the schedule for any period between the first of January 1932 and such other date as the Local Government may, by notification, appoint:

Provided that such rate of interest shall be liable to be increased by the percentage rate by which the rate of interest at which the Local Government is able to secure a loan exceeds 4 per cent.

(2) The rate of interest at which the Local Government is able to secure a loan shall be published by the Local Government for general information in such manner as it thinks fit.

(3) If a decree has already been passed on the basis of a debt and remains unsatisfied in whole or in part, the court which passed the decree shall, on the application of the judgment-debtor amend it by reducing, in accordance with the provisions of sub-section (1), the amount decreed on account of interest.

(4) A decree amended in accordance with the provisions of sub-section (3) shall be deemed to bear the date of the original decree.

(5) Any amount already received by the creditor on account of interest in excess of that due under this section shall be credited towards the principal; but nothing in this section shall be deemed to entitle a debtor to claim refund of any part of the interest already paid by him.

Savings from the provisions of the Usurious Loans Act, 1918.

4. Nothing contained in the Usurious Loans Act, 1918, (X of 1918), shall apply to any debt falling under section 3.

Crown not bound by this Act.

5. This Act shall not be binding on the Crown.

SCHEDULE

(See Section 3.)

Amount of debt	Rate of interest		
	Compound interest per cent per annum with yearly rests	Simple interest per cent per annum on	
		Secured debt	Unsecured debt
Rs. 5,000 and under ..	7½	10	15
Over Rs. 5,000 ..	6	9	13

GPN—580-L—JD—26-5-37—2,000.

(8)

REPORT

ON THE WORKING OF THE

DEBT CONCILIATION BOARD, SEONI, CHHINDWARA DISTRICT

NAGPUR
GOVERNMENT PRINTING, C. P.
1936

X9(J):(2271).2715+r
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GOVERNMENT OF THE CENTRAL PROVINCES

REVENUE DEPARTMENT

REVIEW

Nagpur, the 7th November 1935.

No. 4153-2569-XII.—Government has read with interest the final report of the work done by the Debt Conciliation Board, Seoni, in the Chhindwara district, which was established on the 15th July 1933, with Mr. (now Rao Sahib) N. R. Chandorkar as Chairman and four representatives of money-lenders, landlords and tenants as members. Three more members were added in 1934 to enable the board to cope with the increasing volume of work. The operations of the board were concluded on the 15th July 1935. During this period of two years, 4,943 applications involving debts amounting to Rs. 89.97 lakhs were received. Of these, 501 applications involving debts amounting to Rs. 15.98 lakhs were dismissed under section 7 (1) of the Debt Conciliation Act and 270 applications covering debts of Rs. 9.12 lakhs were dismissed under section 14 as no settlement could be arrived at with the creditors. Agreements under section 12 (1) were executed in 2,784 cases for debts aggregating Rs. 44.40 lakhs. The latter were conciliated for a sum of Rs. 25.75 resulting in a remission of Rs. 18.65 or 42 per cent of the demand. Certificates under section 15 (1) declaring that the creditors had unreasonably refused amicable settlement were issued in 542 cases for debts aggregating Rs. 5.99 lakhs.

2. The Chairman has stated in his report that the parties were generally amenable to reasonable settlement, except that secured creditors were usually reluctant to agree to large reductions. The scheme of repayment of conciliated debts by easy equated instalments was found to be suitable only in cases of small claims, while in those involving big mortgage claims the best means of conciliation was the transfer of a portion of the property of the debtors. Such settlement of debts cannot be embodied in the agreements and is not strictly within the purview of the Act; but there is nothing to prevent the board using their good offices to bring it about. The board did substantial work in the way of such unofficial conciliation, as 70 per cent of the mortgage cases were settled by this method. The instalments were fixed with due regard to the paying capacity of the debtors and no interest was allowed for the future. The report is silent about the exact number of cases in which coercive recovery of the first year's instalments had to be made; but Government understands that their number was comparatively few. As elsewhere, the activities of the board stimulated a certain amount of private conciliation of debts. It is interesting to note that the Chairman estimates that 60 per cent of those whose

claims have been settled ought to be able to keep clear of debt in future. A few large debts over Rs. 25,000 were conciliated by the Chairman informally, and his experience bears out Government's apprehension that the settlement of such debts is bound to be a protracted process and can be undertaken only to the prejudice of the smaller debtors for whom the boards are primarily intended.

3. There is no evidence to indicate that the operations of the board have resulted in any appreciable restriction of agricultural credit for current needs.

4. Government agrees with the Commissioner that the success of the operations of the board was largely due to the unselfish sacrifice of time and trouble which its members made ungrudgingly. The Governor in Council is pleased to record his appreciation of the excellent work done by Rao Sahib N. R. Chandorkar, who brought great zeal, tact and thoroughness to bear on his arduous task; and he also takes this opportunity of acknowledging publicly the valuable service rendered by the non-official members of the board. Special commendation is due to Revd. John McNeil, Dadu Mahendra Nath Singh, Rai Bahadur Dadu Dwarkanath Singh, Member of the Legislative Council, and Savai Singai Dipchand Choudhari for their contribution to the success of the board.

By order of the Governor in Council,

R. N. BANERJEE,

Revenue Secretary to Government,
Central Provinces.

OFFICE OF THE COMMISSIONER, NAGPUR DIVISION

Endorsement on endorsement No. 963-C-35, dated the 7th August 1935, from the Deputy Commissioner, Chhindwara, forwarding the final report on the working of the Debt Conciliation Board, Seoni sub-division.

No. 2675-A, dated Nagpur, the 16th August 1935.

Forwarded to the Secretary to Government, Revenue Department.

2. Rao Sahib Chandorkar has written an interesting report, but the bare statistical record of the board's work is the most eloquent testimony to its success. The conciliation of the debts of 3,326 debtors, owing over Rs. 42 lakhs, involving a remission of Rs. 22,34,000, is an achievement of which the members of the board may well be proud. It is a matter of regret that information has not been included as to the number of applications made to the Deputy Commissioner for the recovery of the first years' instalment and of the proportion of instalments recovered without his assistance. I understand, however, that the number of cases, where the resort to coercive processes was necessary, was comparatively few.

3. The Chairman has made some interesting recommendations for amendment of the Act and rules. I entirely agree with him that an agreement arrived at before the board for transfer of part of the mortgaged property to the creditor should be enforceable. The question of raising the maximum limit of debts is already under the consideration of Government and I need not comment on it here, but Rao Sahib Chandorkar's remarks on the time required for settling these larger debts are of particular interest. Allowance will have to be made for this factor if the limits are raised. Probably the best course would be to provide a separate tribunal.

4. I agree with the Chairman that provision should be made for the signing and verification of written statements of claims. I also agree with him that the proportion laid down in section 12 of the Act requires reconsideration. The suggestion that the proportion should be applied only to the claims of unsecured creditors seems to be a suitable remedy.

5. The moral effect of the work of this board has been perhaps of even greater importance than its material results. It is perhaps not too much to hope that it has suggested a different and higher standard of fair dealing not only to creditors and debtors, but to the judiciary, to officials generally and to the general public. Among the greatest obstacles to an improvement of the economic organization of credit in this country have

been the low standard of fair dealing and the high rates of interest sanctioned by public opinion. If it could once be recognized that interest in excess of 12 per cent per annum where adequate security exists is extortionate, and that the creditor has no moral right to recover many times the amount of his principal loan whatever the negligence of the debtor may be, the standard of fair dealing and the economic position of the cultivating classes will speedily improve.

6. I fully endorse the commendations of the Chairman on his colleagues, to whose unselfish sacrifice of time and trouble the success of the board's operations were largely due. The members of the board, however, would be the first to acknowledge that the greatest factor in its success was the patient determination shown by the Chairman himself, whose thoroughness, persistence and persuasive courtesy were an inspiration to the members and an example to all engaged in work of this nature.

P. J. H. STENT,
Commissioner.

OFFICE OF THE DEPUTY COMMISSIONER, CHHINDWARA

Endorsement on the final report on the working of the Debt Conciliation Board, Seoni Sub-division.

No. 963-C-35, dated Chhindwara, the 7th August 1935.

Forwarded. The report is an interesting record of the excellent work done by the board during the last two years. Three thousand three hundred and twenty six cases involving Rs. 48,08,999 were settled for Rs. 25,74,914 giving a remission of 46.5 per cent. Apart from this, I understand there was a good deal of private conciliation in cases which the board had to reject formally for one technical reason or other.

2. The board being one of the first to be established under the Act had no easy task before it. It had to evolve its own procedure and overcome many practical difficulties in the working of the Act, which at present is none too elaborate. The Chairman has made various suggestions, based on experience, for the improvement of the Act. I entirely agree with Rao Sahib Chandorkar, that the Act requires to be amended for the enforcement of the agreement when a debt is settled by the transfer of a portion of the mortgaged property. This way of settling a big debt is much the best, as it leaves the debtor carefree to start life afresh. I would also like to bring another point to notice. There is a tendency among the creditors to question in the civil courts the jurisdiction of the boards to entertain certain applications; and the courts are inclined to think that

if it is established from their reading of the Act that the boards should not have entertained a particular application, they could ignore the certificate issued by the boards. I do not know how far this position is correct. If there is any substance in this, I would suggest that the Act be strengthened to further bar the jurisdiction of the civil courts. This would increase the utility of these boards all the more.

3. The popularity of this measure, which is plainly reflected in the further demand for the establishment of debt conciliation boards, is no doubt largely due to the excellent spirit in which the Act was worked by this board. The moral influence exercised by the board has also been very great. The spirit of conciliation seems to have now caught on. The phenomenal success achieved by this board was largely due to its energetic and tactful Chairman, Rao Sahib N. R. Chandorkar who worked very strenously to make the best of a difficult job. The board had also a very good and true friend in Rai Bahadur Dadu Dwarkanath Singh, M.L.C., the most influential, broadminded and public-spirited agriculturist money-lender in this tract. He was of immense help to the board both directly and indirectly. I also associate myself with the Chairman in his appreciation of the work done by the other members of the board who all worked splendidly as a team and in full co-operation. The thanks of the Government are due to all of them.

B. A. BAMBAWALE,

Deputy Commissioner,
Chhindwara.

FINAL REPORT ON THE WORKING OF THE DEBT CONCILIATION BOARD, SEONI SUB-DIVISION

The board was established on the 15th July 1933 with the following personnel :—

1. Mr. N. R. Chandorkar—*Chairman.*
2. Rai Bahadur Dadu Dwarkanath Singh, M.L.C.
3. Revd. John McNeil.
4. Mr. Adil Ali Khan.
5. Thakur Murarilal.

Subsequently, the following three more members were appointed :—

1. Savai Singai Dipchand Choudhari.
2. Dadu Mahendra Nath Singh.
3. Thakur Ramrajansingh.

In April 1935 Revd. John McNeil went on leave and Mr. Abdul Rahman, retired Assistant Medical Officer, was appointed in his place.

DEBT CONCILIATION BOARD, SEONI

2. As no applications were received in the first week I went out on a three weeks' tour explaining the main provisions of the Act and the procedure to be followed in making applications. Opportunity was also taken to remove the doubts and fears felt by debtors. People were distrustful of the novel experiment, as they generally are of everything new. Threats of sowcars, uncertainty about the relief and the consequent fear of losing the good-will of the creditors made debtors reluctant to approach the board. They were, therefore, slow to apply, and preferred to wait and profit by the experience of others.

Thus for the first four months no progress could be made. It was only after the first batch of applications was settled, that the people began to realize the efficacy of the board and applications started coming in in larger numbers. Contagion spread to the neighbouring districts and people including pleaders, pensioners and peons started acquiring lands in the Seoni subdivision to enable them to make applications.

These pictures* will show the rush of applicants at the board's office. Tea and sweetmeat stalls, *pan* and *bidi* shops sprang up giving the place the look of a village fair. Taxi-pliers and petition-writers had a prosperous time. The rush has not yet abated. Hundreds of debtors from the old Chhindwara district are every day crowding round the office to enquire as to what would happen to those whose cases could not be taken up or who could not apply. Mr. B. A. Bambawale, Deputy Commissioner, was actually mobbed by them when the other day he was in the board's office as this picture* will show.

People who had given themselves up as lost had begun feeling reassured that the board had come to their rescue. Finding its door closed they sank back into despair. It is thus evident that distrust which was in evidence when the board was established has given place to confidence, and debtors have come

*Photo not printed.

to look upon the board as their saviour. Even sowcars who to start with were trying to dissuade their debtors from making applications made applications as debtors for the settlement of their debts. Thus conciliation was general and all round.

THE BOARD AT WORK

I.—PROGRESS OF WORK AND RESULT ACHIEVED

Eight hundred and forty-six cases having lapsed have been left out, from the following consolidated statement of the work done in the last 24 months:—

Total number of cases disposed of	...	4,097
Amount involved	...	Rs. 73,19,328
Rejected under section 7 (1)	...	501
Amount involved	...	Rs. 15,97,997
Rejected under section 14	...	270
Amount involved	...	Rs. 9,12,332
Cases settled	..	3,326
Amount involved	...	Rs. 48,08,999
Amount remitted	...	Rs. 22,34,084

Remission works out to 46.5 per cent.

EXPLANATIONS

(*a*) Five hundred and one applications were rejected under section 7 (1) for various reasons, *.e.g.*, non-payment of process, ejectment of applicants from their holdings before the date of hearing, want of jurisdiction, unwillingness of debtors to appear or apply for settlement when their creditors made applications, etc., etc. In the last three months a large number of applications had to be rejected for want of service, there being no time to issue fresh notices. These cases have to be left out of account as the board got no opportunity to negotiate and settle their debts.

(*b*) Two hundred and seventy applications involving Rs. 9,12,332 were dismissed under section 14. About 25 per cent of these cases could not be settled on account of the stupidity and obstinacy of the debtors. I shall give only one case to illustrate my point. The applicant had 69 acres of absolute-occupancy land which had been mortgaged with a condition of foreclosure. The mortgagee had obtained a preliminary decree for Rs. 21,000. The applicant had four other creditors and the total debt exceeded Rs. 25,000. The mortgagee prayed for the rejection of the application on the ground of jurisdiction, but after half an hour's talk, he relented not only to the extent of waiving his objection but agreeing to accept only 38 acres of the mortgaged land in full satisfaction, leaving 31 acres to the applicant. But the unfortunate applicant refused to agree and the case had to be rejected. I am informed that the whole of the mortgaged land has since been foreclosed. The applicant would not realize the dangerous nature of his position. There are in this world persons who do not see the wisdom of saving a part when the loss of the whole is impending. About 25 per cent could have been settled if I had more time at my disposal. Cases involving large sums take time to be compounded. As adjournments could not be given they had to be rejected if they could

not be settled on the day of hearing. The remaining 50 per cent could not be settled on account of the unreasonable demands of the sowcars holding key positions. These sowcars did not only want their "pound of flesh", but something more. Some of them appeared more anxious to harass the debtor than to realize their legal dues. The desire to realize the loan together with fair interest is legitimate and perfectly intelligible. But to try to ruin the debtor and make his life miserable is simply deplorable. This tendency was reflected in the following case. A respectable but poor man had mortgaged his house for Rs. 2,500. The total claim of the sowcar on this mortgage bond was Rs. 3,331. The debtor having died, his son applied for conciliation. He did not want any remission. He did not ask for instalments without interest. All that he wanted was suitable instalments with interest at 6 per cent per annum, as he could not pay the entire sum all at once. The sowcar knew that he would never get all this money in a civil court, as the costs which he would have to incur would not be allowed. He thus stood to lose this sum from his pocket. Nor, would the court in any case grant him interest in excess of 6 per cent per annum, simple. Still the sowcar did not agree. His intention could be easily divined. He wanted to wait till the debt had swollen beyond the paying capacity of the debtor and then to sue him, purchase the house at auction sale for a paltry sum and swallow the debtor's other property. This is an attitude which is responsible for all the bad name that is generally given to sowcars. This reprehensible tendency which is likely to drive debtors to desperation is fortunately not common.

(*c*) Three thousand three hundred and twenty-six cases involving Rs. 48,08,999 were settled for Rs. 25,74,914 giving a remission of 46.5 per cent.

Details of the settled debts are—

	Rs.	
(i) Claims on mortgages...	11,94,260	
Settled for ...	7,47,550	Remission 37.2 per cent.
(ii) Claims on decrees including mortgage decrees ...	3,67,361	
Settled for ...	1,95,332	Remission 45.5 per cent.
(iii) Simple money claims...	32,47,378	
Settled for ...	16,32,067	Remission 49.8 per cent.
(iv) Debt per head comes to ...	1,444	
(v) Actual number of claims settled ...No.	10,322	
(vi) Average claim therefore comes to ...	467	

From what I have seen of the debtors, I have reason to hop that 60 per cent of those whose claims have been settled will n get into debt again. They have been trying without success a

these years to be free from the clutches of their creditors. Heavy interest charges had swallowed up all their surplus income, making it impossible for them to repay the capital consisting mostly of accumulated interest. Now that interest has ceased to run and the claims against them suitably reduced, they will easily redeem themselves.

In five cases, 19 sowcars were good enough to give up their entire claims amounting to Rs. 6,619 in honour of Their Majesties' Silver Jubilee. I give below pictures* of four cases. The photograph of the fifth and the biggest of these cases was unfortunately spoiled.

The spirit of generous enthusiasm thus created by the existence of the board has led also to private conciliation to a certain extent.

II.—Difficulties experienced in the working of the act and amendments that appear to be necessary

The scheme of conciliation as outlined in the Act contemplates repayments of compounded debts by equated instalments. This is quite suitable in cases involving small claims. But experience shows that big mortgage claims cannot be satisfactorily settled in this way. Agriculturists' paying capacity has diminished considerably, and in these days of low prices, regularity in the payment of instalments can hardly be expected unless the settled claim is made repayable in 25 to 30 years by very small instalments. Big claims and small instalments go ill together. As the sowcar's claim is substantially reduced and as no further interest is allowed, he is naturally reluctant to agree to such a scheme of liquidation. He can be induced to accept repayment in 10 or 12 years, but in that case the instalments exceed the paying capacity of the debtor. And as defaulted instalments are recoverable as arrears of land revenue, dangers of heavy instalments are obvious. Instead of saving him, they might hasten his ruin. The best way in all such cases is to satisfy the debt by the transfer of a portion of the mortgaged property and leave the debtor carefree to start life afresh. There being no prohibition to the adoption of such a course about 70 per cent of the mortgage cases were so settled. But occasionally what happens is that one of the parties resiles at the time of the execution of the sale-deed or its registration, challenging the other party to go to the civil court for specific performance. This because the Act makes no provision for the enforcement of such an agreement. This is not satisfactory and the Act requires to be suitably amended.

Under the law as it stands today, a mortgagee may either allow his security to be shared with by unsecured creditors or refuse to participate in the scheme. He will naturally adopt the latter course and nullify the effect of the agreement by going to a civil court, obtaining a decree and executing it. He can thus undo what the board might do. He feels compelled in such a case to enforce his claim immediately after a certificate under section 15 has been issued against him. And he is impelled to do all this, because there is no inducement for him to

*Photo not printed.

come under the Act. If an agreement in such a case could be made subject to his mortgage he would have no reason to keep out. The debtor will get the necessary relief and will be free from the worry of a costly and interminable litigation. Such an agreement will not adversely affect the existing legal position of the parties.

Section 4 (i) Proviso.—There is a persistant demand for raising the limit from Rs. 25,000 to Rs. 50,000. The demand is genuine and has logic on its side. Continuous bad years and low prices have seriously affected the paying capacity of the agriculturist with the result that he has not been able to pay even the interest charges on his loans which in the ordinary course have now reached astronomical figures. He is naturally bewildered and clamours for relief. None can withhold his sympathy from him. But if the limit is raised, smaller debtors are bound to suffer. Big cases require enormous time to be settled. Once they are taken up no other cases can be heard. I have settled nine cases of over Rs. 25,000, but all of them were fixed on holidays at my bungalow to avoid inconvenience to smaller debtors. Below is the picture* of a case involving over Rs. 50,000.

There were 17 sowcars and the case took about 80 hours to be settled. This will give some idea about the time, energy and patience required to settle a big case. If this case had been taken up during the ordinary working hours, about 150 cases, roughly speaking, would have remained undisposed of.

Generally speaking, big cases can only be settled by the transfer of village shares. And this is where the rub comes in. Prices of lands and villages have markedly depreciated and if they are sold at the rates prevailing at present, the debtor would save nothing. Attempt has, therefore, to be made to persuade the sowcar to purchase it at something like the price which prevailed when the loan was advanced. This cannot successfully be done without a good deal of higgling and bargaining. This picture* illustrates the case in point. It involved a claim of Rs. 18,000. The applicant owned only Re. 0-8-0 share of a village which was mortgaged with two creditors. The mortgagees did not offer more than Rs. 5,000 for the share Having regard to the present prices and the burden of the encumbrances, the price offered was not unreasonable. But this could give no relief to the applicant who had six other creditors to satisfy. Enquiry and village papers showed that the normal price of the village share could not be less than Rs. 9,000. It required 12 hearings extending over ten months to sell Re. 0-6-0 share for Rs. 8,000. The case had been taken during the ordinary working hours. Such cases can easily be multiplied, but I do not propose to overburden the report by their narration. But these two cases conclusively show that the present boards cannot be reasonably or conveniently called upon to entertain cases involving over Rs. 25,000. I am not against giving relief to big debtors. They deserve relief as much as the small debtors. But it is not humanly possible for one board to do all this.

*Photo not printed.

Section 8.(2).—Section 5 requires that all applications should be signed and verified like plaints in civil suits. Similar provision should be made for the signing and verification of written statements of claims. This is necessary to discourage and penalize submission of false claims, which some sowcars are found doing with a view to obstruct the proceedings.

Section 12.—In view of the recent amendment granting special protection to the secured creditors, it does not seem necessary to retain the proportion of 60 and 40 per cent. A secured creditor, whatever his claim, is at liberty to keep out and seek his remedy in a civil court. He is, therefore, not adversely affected if this proportion of 60 and 40 per cent is done away with. On the contrary, the retention of this proportion works a great hardship on a debtor who cannot get any relief even when his unsecured creditors are agreeable to accommodate him. I give below an actual case to illustrate my point—

Creditors		*Claims*	*Based on*
A	...	2,593	Mortgage.
B	...	244	Decree.
C	...	750	Bond.
D	...	500	Bond.
Total	...	4,087	

In this case, the last three creditors were willing to reduce their claims by about 50 per cent, but as the mortgagee was not agreeable to any kind of settlement, the case had to be rejected, the mortgagee's claim being more than 60 per cent of the total. The result, as can be seen, was extremely prejudicial to the debtor. He would have to pay all the three creditors their full claims with costs of suits, if they are filed, because no certificate could be issued under section 15 against willing sowcars. Under my proposal the mortgagee would not suffer and the debtor would get relief from the unsecured creditors. I, therefore, would suggest that the proportion prescribed by this section should be removed. If, however, it is to be retained, it should apply to the claims of unsecured creditor only, claims of secured creditors being left out of count in striking the percentage.

III.—Money-lenders and Money-lending

No profession has exercised such a strong fascination on the popular mind as money-lending. Even the Gods have succumbed to its charm and are seen competing with mere mortals. This class, therefore, ranges from Gods to beggars. Between these extremes are to be found large varieties of money-lenders of different castes and ranks in life. Malguzars, shop-keepers, retired Government servants, itinerant Rohillas, and, in fact, every one who has a couple of hundred rupees, carry on this business of lending money. In a community consisting of such a heterogeneous mass of people, desirous of becoming rich in the shortest time possible, uniformity of business methods cannot be expected. Some are honest; some practise honesty as a policy; while others think that everything is fair

in business, and their methods vary according to the degree of ignorance and solvency of their clientele. Cases such as that of a sarkat where a mere application to the Deputy Commissioner was intended by the executant; of a possessory mortgage where a lease was intended and a mortgage with condition of foreclosure where a *Panch Faisala* was intended are not uncommon. Such things are made possible by the ignorance of the people and lack of public opinion against hard or questionable dealings. Undoubtedly these and many other practices will disappear the day the agriculturist begins to understand accounts. The solution looks so simple and satisfying provided one does not too closely enquire as to the time required to educate the countryside. It is little wonder, therefore, that many people, contemplating the future, see no escape from despair and in consequence become indifferent. To the money-lender, however, the entire non-money-lending class appears to be in a conspiracy to ruin him. He considers himself as ruined if he does not get anything more than a fair return for the money advanced. In a way he is right. He expects something for the life-long sacrifice he makes in the interest of the borrowers. He lives meanly all his life and denies all pleasures to himself so that he might save to lend. And if his heavy demands rob the borrowers of even the bare necessities of life, it does not impress him, because he has systematically curtailed his own needs and led a hard life himself. One of such sowcars is known to have summarily dismissed his agent for the unpardonable offence of having accepted a fair award of the board. A sowcar of this brand sees no reason why any one except the fattest should survive. To my mind debt conciliation boards are bound to exercise a great educative influence on such creditors and as time passes and boards become a standing feature of the administration they will come to realize what their fair and just share is in the scheme of things.

The following pictures* represent some of the most common types of sowcars :—

(*a*) These are the malguzar money-lenders who find money-lending more profitable than agriculture. To them law courts are sweeter than Home. Litigation is their only recreation. Twenty-five per cent per annum is the interest they commonly charge. They are open to reason.

(*b*) "Known as the Land Mortgage Bank" of the Seoni Sub-division, with his secretaries. Is believed to be fabulously rich. His rate of interest rarely exceeds 6 per cent per annum and he rarely advances money except on mortgages. His dealings are straight.

(*c*) Group of Jain and Bania sowcars of the Amarwara and Chhindwara tahsils. Have behaved reasonably before the board.

(*d*) Non-Jain sowcars. Most of them have dealt with their clients sympathetically.

(*e*) The much maligned Kabuli sowcar. He provides credit to those who cannot find it anywhere else. His

*Photo not printed.

interest charges should, therefore, be higher than they actually are. All village sowcars charge *sal savai* and he does the same. But his dealings are quite straight. He does not understand legal subtleties or procedure of the law courts. He therefore, at times resorts to violence for the realization of his dues. But he is less dangerous than the mild Bania who, by his sweet and insinuating ways, has brought ruin on several big land-owning families and threatens to be the biggest landlord in the district. A Kabuli is a large-hearted person and I have found him to be the most docile of sowcars.

(*f*) These may be mistaken for debtors. They have extensive money-lending business. As they live among their clients, they are always found ready to accommodate them. Godfearing and thrifty do not go to law courts unless compelled to do so. Mahajan in the true sense of the term, they deserve to prosper.

IV.—Debtors and debts

To me the entire human population appears to be divided into two groups; one that borrows and the other that lends. These compartments are by no means watertight, because there are persons who enjoy both the capacities, *i.e.*, those who borrow to lend. As their prosperity depends on the well-being of the agriculturists, they appear to be as much affected by the prevailing depression as the agriculturists themselves. Naturally, therefore, they view conciliation proceedings with greater sympathy than those from whom they borrow.

Debtors present a larger variety than creditors. But, generally speaking, they fall into two broad categories; those who have inherited indebtedness and those who have acquired it. The lot of the born debtors is pitiable and no one can withhold his sympathy from them. The age-long tradition of acknowledging and paying the debts of fore-fathers has been exalted into the legal doctrine of "pious obligation" to pay the ancestor's debt. So even when no assets pass and debts are not legally inherited, the son acknowledges it as a debt of honour by force of this tradition, and makes heroic efforts to repay it. These people start in life with a handicap and finding no escape from the tyranny of intractable circumstances resign themselves to their fate and pass through life like good-natured Stoics. Below are the groups* of such debtors. To them in this transitory world, debt alone appears to be eternal and permanent. The board has changed their outlook by infusing a new life into them and they now believe that even debt is transitory. Unsophisticated and honest, they readily put their thumbmark on any paper produced before them. Verily their thumbs have been the cause of their ruin. They have now been redeemed and I hope will not revert to their former state.

Below are the groups* of solvent debtors. Some of them were in affluent circumstances till very recently. They wasted

*Photo not printed.

their substance in costly and protracted litigation as a result of family or some other disputes. Cases of extravagance have been very rare. Appreciation of the uselessness of unnecessary expenditure on ceremonials is more in evidence than before. The general cause of indebtedness of these persons is that they did not adapt themselves to the changed conditions in time. They maintained their expenditure at the predepression scale in the hope that the times will change for the better. Indebtedness in some cases was due to inefficient management or wasteful administration of their estates. In the Sausar tahsil and sugarcane growing areas of the Chhindwara and Amarwara tahsils, a large portion of the debts was incurred for the purchase of land or for the payment of leasehold money for land taken on very high rent. This was done during the boom period when there was a general scramble for land. But whatever the cause, the cases of solvent debtors were the most difficult to settle. If these people mend their ways, learn to economize and pay up the instalments regularly, the time and labour devoted on them will be well requited. Some of them will certainly avail themselves of the opportunity given to them to save themselves. But I am a little sceptical about those respectable debtors who having lost their substance are proud of the shadow and expect to live the life of ease and still pay up the instalments, without doing a stroke of work.

V.—General

Conciliation of debts is by no means an end in itself. It only prepares the ground for the economic amelioration of the countryside upon which the future prosperity of the people depends. Now that the load of indebtedness has been considerably lightened and the interest which not only absorbed all his income but continued to swell his debt has ceased to grow, the agriculturist now feels more hopeful of the future. That the advantage gained may not be lost, a vigorous and well directed campaign of rural reconstruction is indicated. The agriculturist must be exhorted to pay up the instalments and helped to improve his position. Every attempt should be made to prevent a relapse. Government servants are doing their bit. But unless the people, who heave half a brick at the lot of the unfortunate agriculturist co-operate with them, nothing tangible can be achieved. Full crops, good milch cows, lovely houses, buxom bonny babies, cannot be obtained by merely talking about them. Determined and organized efforts are called for.

The real trouble with the agriculturist is that he cannot estimate his income which depends on forces outside his control and that he has to incur expenditure before the income accrues. His other handicap is that fluctuations in prices affect him more than any one else. For everything that he has to purchase, he requires hard cash because he can neither get it by barter nor can he produce it. He is, therefore, compelled to sell his goods at the prices offered. Purchase and sale societies and societies for better farming organized on co-operative lines can do a lot in this direction. They present unusual difficulties and many ventures may fail. But it cannot be denied that they are the real need of the day.

VI.—Acknowledgments

I was fortunate in my colleagues but for whose loyal and willing co-operation it would not have been possible for me to achieve the results reported above. They were all inspired with the desire of helping the indebted agriculturists and worked as a team. I offer my sincere thanks to them all. Special mention must, however, be made of Revd. John McNeil and Dadu Mahendra Nath Singh each of whom officiated as Chairman during my absence and otherwise relieved me of considerable amount of work at great inconvenience to themselves. Savai Singai Dipchand Choudhari also deserves special notice for the efficient manner in which he discharged his duties, often embarrassing to him. On account of his intimate knowlegde of money-lending and money-lenders he was a source of great strength to the board. Rai Bahadur Dadu Dwarkanth Singh, M.L.C., Mr. Abdul Rahman and Thakur Murari Lal served the board truly and well by working ceaselessly for the settlement of cases.

I take this opportunity of recording my appreciation of the manner in which the board clerks Upgade and Suraj Prashad, the sub-registrars of Seoni and Lakhnadon, Gauruddin Ahmad and Mashir Ali, respectively, and the record-keeper Babulal (who are seen in the picture* below) acquitted themselves of the very hard work thrown on them. They have worked early and late ungrudingly for months and deserve encouragement.

*Photo not printed

Consolidated progress return of the Debt Conciliation Board, 15th July 1933 to

Cases pending at the beginning of the board		Cases registered during the period of the board		Dismissed under section 7(1)		Total cases			
						Agreement executed under section 12 (1)			
Number	Amount	Number	Amount	Number	Amount	Number	Amount involved	Amount due to those who agree	Amount in agreement
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
	Rs.		Rs.		Rs.		Rs.	Rs.	Rs.
..	..	4,943	71,86,374	501	15,97,997	3,326	50,38,707	48,08,999	26,04,905

SEONI:
The 31st July 1935.

Seoni Sub-division, for the last 24 months, i.e., *beginning from the 15th July* 1935.

Cases disposed of: Cases in which agreement has ceased to subsist			Cases disposed of: Dismissed under section 14		Cases pending at the close of the Board		Number of certificates issued under section 15 (1)			Number of days on which Board sat during the existence of the Board
	Amount in agreement									
Number	Original	As compounded	Number	Amount	Number	Amount	Number of cases	Number of certificates	Amount due to creditor against whom certificate is granted	
(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)
				Rs.		Rs.			Rs.	
..	..	..	270	9,12,332	846	14,47,852	442	542	5,99,080	516

N. R. CHANDORKAR,
Chairman,
Debt Concilation Board,
Seoni Sub-division

GPN—1977-L—RS—23-12-35—25.

REPORT

ON THE WORKING OF THE

KELAPUR DEBT CONCILIATION BOARD

IN THE

YEOTMAL DISTRICT

NAGPUR
GOVERNMENT PRINTING, C. P. & BERAR
1937

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OFFICE OF THE COMMISSIONER, BERAR DIVISION

No. 143-B-IV
Memorandum

To

THE SECRETARY TO GOVERNMENT,
CENTRAL PROVINCES,
REVENUE DEPARTMENT.

Amraoti Camp, the 15th April 1936

I forward herewith the final report of the Chairman on the working of the debt conciliation board at Kelapur. The report would have been much more valuable if the statistics had been presented in a compact and easily intelligible form, instead of miscellaneous items being scattered haphazard throughout the body of the report. To avoid obscurity in such reports in future I suggest that Government should prescribe statements to be appended to them.

2. What should have been the most valuable and important feature of the report, *viz.*, an analysis of the instalments fixed for repayment and an appreciation of the capacity of the people to pay, has been entirely omitted. All that I can find on the point is the following remark: "The relief obtained by the settlement will be permanent if they make it a point to pay off the instalments as a necessary expenditure before spending money on any extra item." This remark is, of course, absolutely meaningless. The Act is unfortunately so framed that each instalment has to be paid each year, unless Government revenue is suspended or remitted. The question then is not so much whether the debtor can pay in an average year as whether, over the full term of years for which instalments have been fixed, he will be able to meet the instalment each year as it falls due. In the Mehkar taluq where, as was pointed out at the time, higher multiples of land revenue were being fixed, there is now an almost universal outcry that the instalments cannot be paid this year. It would have been useful if the chairman of the Kelapur board had indicated with precision what was the pitch of instalments fixed and whether in fact those which had fallen due were now being paid. Such information would have been a valuable contribution to our knowledge of the effect of these boards. The matter is of such importance that I think the Deputy Commissioner should be asked to submit a special report on it. It is easy for the Chairman of a debt conciliation board to point at the end of his work to the amount by which debts have been reduced and to dwell upon the hard work which he and his colleagues have undoubtedly put in; but what Government really wants is whether the work done by the board has solved, to an extent commensurate with the efforts and expenditure involved, the problem of rural indebtedness.

H. C. GREENFIELD,
Commissioner, Berar.

FINAL REPORT ON THE WORKING OF THE DEBT CONCILIATION BOARD FOR THE KELAPUR TALUQ

The board was established on the 11th June 1934 with the following members :—

(1) Mr. V. B. Vaidya, Extra-Assistant Commissioner—*Chairman.*
(2) Mr. Dattatrya Krishnarao Deshmukh, of Parwa.
(3) Mr. Ramrao Krishnayya Patel, of Chalbardi.
(4) Mr. Syed Abdul Rauf Shah, of Pandharkaoda.
(5) Mr. Sadashio Shrikrishna Pande, of Ghatanji.
(6) Mr. Sadashio Pandurang Dehankar, of Chandapur.
(7) Mr. Syed Ahmad, of Gaurai.

Unfortunately, Ramrao whose services would have been very valuable became seriously ill before the board opened and ultimately fell a victim to cancer. In the month of February 1935 the following members were added :—

(1) Mr. M. P. Kolhe, M.L.C., of Yeotmal.
(2) Mr. Ramrao Sheorao Patki, of Pandharkaoda.
(3) Seth Thakarsidas Shamlal, of Pandharkaoda.

A wide publicity was given to the establishment of the board and cyclostyled copies of forms of applications were sent out throughout the taluq. People began to gather in numbers at the board's office to enquire about the advantages of the Act and they were fully explained to them. Applications were, however, very slow in coming and during the rainy season they were received only from those that wanted certificates to stop the foreclosure of decrees or attachment or sale of property. In the rainy season, agriculturists were busy with their cultivation and were still in need of petty loans from their saokars whom they did not want to offend; want of enough good roads in the taluq rendered it difficult for them to go out and return home swiftly; but above all, the public were diffident about the advantages to be obtained and looked upon the board almost as an insolvency court. They carefully watched the result of the first batch of applications and then applied freely when practically convinced of the relief likely to be obtained. The misunderstanding about likely social degradation gradually disappeared and some persons who appeared as creditors in the first few cases put in their applications for the settlement of their own debts. It must, however, be said that the total number of applications was comparatively low. There is a large number of izara and jagir villages in the taluq and both the proprietors and tenants are interested in keeping mutual relations cordial; very few applications were, therefore, received from those villages except from izardars themselves. Again, the moneylending in the southern portion of the taluq is concentrated in the few big landlords of Parwa, Chalbardi and Patan-Bori; they are known to have always had a full sympathy with their debtors who get reasonable concessions from them. The applications were thus mainly

from the khalsa villages in the northern and south-western portion of the taluq: In the major portion of the taluq, the economic depression is not as acute as that in the plains and that fact also adds to the various other reasons for the small number of applications. The board remained fully occupied in the year 1935. As per orders of the Hon'ble the Revenue Member, who paid a visit in August 1934, the work of Collector's cases of the Kelapur taluq was given to me for about six months as also some criminal work, so that I too remained fully occupied throughout.

I.—Progress of work and results achieved

In three cases of recently divided members of one family having a total debt of Rs. 43,079, it was settled that the creditors should take cash consideration and the debtors applied to the land mortgage bank for a loan. That application was not and still is not decided by the bank and the three cases had, therefore, to be filed. Leaving them out, the remaining work done by the board during the period of nearly 18 months was as given below:—

	Rs.
(*a*) Applications rejected under section 7 (1)—97. Amount involved	... 2,05,705
(*b*) Cases dismissed under section 14—228. Amount involved	... 7,04,341
(*c*) Cases settled—482	
(i) Amount involved	... 15,49,125
(ii) Amount settled	... 10,25,918
(iii) Remitted	... 5,23,207

The remission works out to 33 per cent.

Explanation.

(*a*) In the applications rejected, there were 24 from creditors whose debtors either did not turn up at all or declined to apply for settlement. The rest were found to be beyond any hope of redemption.

(*b*) Two hundred and twenty-eight cases had to be dismissed because (i) several creditors who had obtained preliminary decrees for foreclosure did not agree, or (ii) some creditors were throughout uncompromising, or (iii) some debtors themselves did not accept reasonable proposals. Among them there were 6 from members of two families put in after a partition of their property and debts but the debtors themselves did not agree to good proposals accepted by the creditors; in another case the applicant was found to have been already adjudged insolvent; in the eighth case the debts slightly exceeded Rs. 25,000 and one creditor who made a fortune mainly while he was in the employ of the debtor who was then rolling in wealth would not agree to any settlement and therefore the case had to be dropped. In the applications dismissed, there were 15 from such big debtors and their total debt exceeded Rs. 2 lakhs, leaving nearly Rs. 5 lakhs for the remaining 213 applicants.

(*c*) Out of the cases settled, 7 were from members of a Hindu family. They had got a partition of their property effected

through the civil court by a consent decree and had divided the debts in seven equal parts. The total debt was over Rs. 1 lakh. The debtors are out of the well-known izardars in the district, washermen by caste. The head of the family holds a number of testimonials. He is known to be a generous man. Till a few years back, his financial position was very sound and as some creditors confessed, he used to deposit with them bags of silver for months together without even an acknowledgment. The creditors were thus anxious to keep his account and induced him to have some debts standing in his name at a low rate of interest. His heavy expenditure, combined with successive bad years, gradually took him deeper into the mire, until at last one small creditor obtained a decree and got a warrant of arrest issued against him. He had no cash and therefore ran to the board. It was not possible to go on with the case till all the creditors showed their inclination to settle. Two brothers whose claim was for a little over Rs. 40,000 were fighting bitterly in the civil court for a partition of their own estate. They had, therefore, to be first induced to settle their joint claim and share it half-half. Meanwhile, the guardian mother of one minor son of the izardar, and a sharer, for whom she had put in an application for conciliation, was scared away by some one and she began to say that the debt was unnecessarily incurred by her husband and was not binding on her son. The position had to be fully explained to her and then she made up her mind to join the other members of the family in the settlement. Eventually, the debts were all settled by the transfer of a 10-anna share in the izara village assessed to Rs. 1,600 and some bits of khalsa land assessed to Rs. 115, leaving, in a compact block of good land, a 6-anna share in the village and some khalsa land to the debtors who were about to lose all their land and be reduced to poverty. Some of the land transferred is very poor and its total value as estimated by the debtors is Rs. 40,000 only. Sale deeds were executed by all the members of the family and possession was also speedily given. There were 2 cases of an izardar and his son who had effected a similar partition. The family held a 6½-anna share assessed to Rs. 650 in one village. Taking advantage of his financial difficulty, a creditor got a warrant of arrest issued against him and the poor izardar had to remain hiding in jungle without food on an important holiday. His creditors agreed to the partition of the debts and the total debt of Rs. 46,436 was settled for Rs. 32,648; Rs. 30,900 were satisfied by a transfer of a 3½-anna share in the village and Rs. 2,268 only remained to be paid in easy instalments. The best land was all under a mortgage, and in ordinary course the whole property would have been lost very shortly. There was a third case of a partitioned estate and debt. That family was and is, however, very sound. The income is good but the izardar had fallen a victim to money-lending, and his investments were all held up while his creditors were pressing. The debts were recent and the applicant's financial position did not make out a case for much reduction. He was, however, only keen on an estoppel to future interest and on fixed instalments. The total debt of Rs. 72,918 was settled for Rs. 61,000, Rs. 15,000 of which were finally satisfied by transfer of some land and the rest fixed in 12 instalments. A brother of the last-named

izardar was brought to the board by one of his creditors and he consented with some reluctance to have his debt settled. His elder son had to leave off his college course because his father had stopped his funds and that son had filed a civil suit for partition. After the father's application was admitted, his two sons approached the board and said that they did not admit the debts and that the settlement, if any, would not be binding on them. They were induced to join their father in the settlement on the assurance that the settlement of the debt would be subject to an amicable and satisfactory partition of the estate. The debts were settled and with great efforts a detailed partition of their big estate was also effected after a week's exertions out of office hours, and a consent decree was obtained. They have, with the consent of the creditors, shared the instalments to be paid. There were in all 38 cases of debts between Rs. 10,000 to Rs. 20,000, and 23 of debts above Rs. 20,000. It would be out of place to give the history of each of them, but I have described in brief some typical ones only to show how much time such big cases take and what labour they involve. In the last four months when most of these big cases had remained, the board was generally sitting morning and evening for nearly 12 hours a day.

Debts amounting to Rs. 15,49,125 were settled in 482 cases, giving an average debt of Rs. 3,216 per head. The details of the debts settled are given below :—

		Rs.
(*a*) Secured debts	..	4,82,508
Settled for	...	3,36,445
By transfer of land	..	1,75,881
By instalments	...	1,60,564
Reduction	...	30 per cent.
(*d*) Unsecured debts	...	10,66,620
Settled for	...	6,89,473
By transfer of land	...	1,59,243
By instalments		5,30,230
Reduction	...	35 per cent.
Average reduction	...	33 per cent.
(*c*) Claims	...	1,662
Average claim	...	932

There was very little reduction in some big good cases while that in ordinary cases was about 45 per cent. No further interest was allowed except for debts due to co-operative societies or banks to whom the interest that was demanded was allowed and equated instalments were fixed. Nearly 25 per cent of the debts were under civil court decrees and some reduction was made even in them. There were some preliminary decrees for foreclosure, and there the creditors who were soon to get the whole land under their mortgages, gave up some of it and purchased the rest at their own cost. Cases in which there was no secured debt were very few. Nearly 50 per cent of the debt was incurred during the last five years and in several cases the amount fixed was the bare principal repayable in 10 or 12 instalments, *i.e.*, only interest at 10 per cent for a fixed period and nothing more. The instalments were fixed after a careful consideration of the debtor's paying capacity in an average year, and if the debtors

are sagacious and thrifty enough they would be able to pay them without much difficulty unless any calamity befalls any of them. It was the high interest which was being compounded every year that was a heavy burden, and it has been removed.

II.—Difficulties experienced in the working of the Act and amendments that appear to be necessary

A debtor's paying capacity depends upon crops and prices which are always changing and uncertain. Several debtors purchased land in the boom years at high prices and incurred debts. It is not possible for them now to manage all that property, and some of it is leased out or even allowed to lie fallow. In such cases, it is found more convenient to give away some land to the main creditors, particularly mortgagees, leaving enough land to the debtor according to his means and status rather than fix up annual instalments for the whole debt. The execution and registration of the sale deed is outside the jurisdiction of the board, and there are various influences prevailing upon the parties, particularly the debtors, to make them withdraw from the subsequent processes. An eye had to be kept on the parties and generally the conveyances had got to be drawn in the board's office, and sent forth straight from there for registration soon after the agreement was tendered there. It is not always possible to follow this practice, and if the debtor withdraws, the creditor has to suffer unnecessary loss of time and money in the subsequent procedure. The task would be easier if the Act were so amended as to do away with a further consent of the parties before the Sub-Registrar about the conveyance in pursuance to the agreement. It would be still better if a provision for the transfer is made in the Act itself and a separate conveyance, which involves a fresh expense on the creditors, is entirely done away with.

Big landholders whose individual debts generally exceed Rs. 25,000 are as much in need of relief as small ones but from the experience gained it is found that they require proportionately much longer time and greater trouble for disposal when compared with ordinary farmers tilling their soil. I could take up the big cases only because time could be spared for them. As the Act is mainly meant to give relief to the ordinary average farmer, the present limit of Rs. 25,000 is quite enough for an ordinary board.

When debtor's land is mortgaged, the creditors whose debts are unsecured are prepared to reduce their claims even to 50 per cent of the principle and take them in convenient instalments rather than spend money in going to court. The debtor, too, is willing to discharge his liabilities in that way and maintain his credit. The settlement is possible only if the mortgagee is prepared to settle or if the unsecured debts are at least 40 per cent of the total debt; otherwise the application has simply to be filed. As the mortgagee's position is quite safe, it would be a relief to the other party if in such cases the limit of 40 per cent is done away with or confined to the unsecured debts.

Some creditors are found to write their statements in an irresponsible manner, and it takes a lot of time to scrutinize them and draw up the correct figure. They would write them more

carefully if they are required to verify them like plaints in civil suit.

In the proviso to section 8 (2), there should be a time limit for a creditor to put in his application either to the board or to the civil court as it is in section 19. Secondly, the powers of a board and a civil court under that proviso are co-extensive. It is, however, not clear whether one of them can entertain an application after the other has already considered and disposed of one. It is not necessary to reiterate the other difficulties here as they have been observed by the Government and the Act is in the process of amendment.

III.—MONEY-LENDERS

Money-lending in this taluq was formerly confined to the few old established families in the taluq and Bootis of Nagpur and Patil families of Warora and Wun who always advanced moderate loans and charged a comparatively low rate of interest. In the villages by the side of the Wardha river was found an old practice of taking grain on Sawai and such grain advances were made mostly by creditors from the Wardha district. In the boom years of cotton, when the cultivator became overconfident about his position and started borrowing and making purchases at shops freely, all kinds of people, from labourers to big landholders of all castes and creeds, as well as shop-keepers in villages and towns took up the business as a short way to wealth. They included Marwadis, Bhatias, Gujrathis, Sikhs, Rohillas, Kacchis and Khojas. Khojas, some of whom have acquired villages and are considered as typical farmers, are specially strong in number in this taluq. They advanced loans and took mortgage deeds with the object of acquiring land and these people remained adament. Cotton adatyas and buyers advanced loans without going deep into the financial stability of their *asamees* only in the hope of extending their cotton business and they succeeded in the boom years. These people and shop-keepers, always keen on keeping up their business and using money-lending as a means to that end, were most amicable to settlement. The Usurious Loans Act and the Money-lenders Act were found very useful in reducing the debts, and the time required for drawing the figures accordingly and confronting the creditors with them was usefully spent. With the exception of a few men from every caste, who remained stiff all through, the saokars in general agreed to a settlement except in respect of debtors against whom they had strong antipathies. There were some who were all through determined to save their *asamees* and accordingly accepted the reasonable proposals. One Teli saokar, in particular, a self-made man and a good landholder whose claims were secured, reduced them appreciably and accepted instalments. He was firm in not taking any land in satisfaction but wished it to remain with the farmer. The relations between saokars and *asamees* were found generally more cordial in the south-western portion of the taluq than in the northern portion.

IV.—DEBTORS

The debtors' easy life without the least thought to his budget is a standing complaint of the money-lender who lives a hard life and denies himself even its necessities. They went

on borrowing so long as there was some one to lend them money and submitted to hard terms. Some of them took long term leases on high terms in the good years and were about to lose their own land for the arrears of rent. Some wily creditors sold their land to them at high prices in those good years and got that land, along with the other land of the purchaser, mortgaged, and though they got some repayments, the debtors were likely to lose their own land as well as the land purchased. There were a few cases of debts incurred for marriages in the year of the Sarda Act. That year was followed by successive bad years and old debt went on increasing. The aggregate debts were incurred mainly for purchasing land and for the expenses of cultivation as also for maintenance. With successive bad years, the cultivators have become wiser but very few of them have yet any idea of framing their budget according to their yearly income which entirely rests on things beyond their control. The relief obtained by the settlement will be permanent if they make it a point to pay off the instalments as a necessary expenditure before spending money on any extra item. Small farmers are more inclined to adopt this wise course than big ones who have the notion of maintaining a higher standard of living though it may be beyond their means.

Acknowledgment.—I would not have been able to do what I did without the happy co-operation of all the members who worked with me with great zeal and a broad mind even in the morning and evening at great inconvenience to their private affairs. They worked in real public spirit and did not hesitate to exert their private influence, whenever needed, for relieving the distress of the agriculturists. I, therefore, take this opportunity of conveying my thanks to them all. I would make particular mention of Mr. Syed Abdul Rauf Shah, Mr. Sadashiorao Pande and Mr. Syed Ahmad who worked hard inside and even outside. Mr. D. K. Deshmukh, who privately compromised several claims of his in the manner they would have been settled by the Board, came to the rescue of several other honest farmers who owed debts to other creditors too and who were induced by Mr. Deshmukh to apply to the board when those other creditors failed to conciliate outside. Mr. Sadashiorao Dehankar was in constant attendance. Messrs. Kolhe, Thakarsidas and Patki, though added late, kept up their attendance as best as they could and shared the troubles, and Messrs. Kolhe and Thakarsidas gave a substantial relief to their *asamees* several of whom had put in their applications before the board.

I cannot close without making a mention of my clerk Khandzode, who worked hard single-handed, of sub-Registrar Tare who promptly received documents even at late hours in the evening, and of the Tahsildar, Mr. Haji Mohammad Yasin, who gave me all the help I required in all directions.

V. B. VAIDYA,

Chairman,

Debt Conciliation Board, Kelapur.

KELAPUR :

The 29th February 1936.

No. 1903-1758-XII, dated Nagpur, the 16th May 1936.

From—S. SANYAL, Esq., Under Secretary to Government, Central Provinces,

To—The Deputy Commissioner, Yeotmal.

REFERENCE.—*Final report on the working of the debt conciliation board, Kelapur.*

Please supply as soon as possible such information as is available regarding the percentage of instalments which were not paid and for which coercive proceedings under section 13 of the Debt Conciliation Act had to be instituted. The amounts involved in these defaulted instalments and the amounts of the instalments which were voluntarily paid up should also be reported.

A statement in the form of the monthly progress report should also be submitted for the whole period.

No. 1904-1758-XIII, dated Nagpur, the 16th May 1936.

Copy is forwarded to the Commissioner, Berar division, for information.

S. SANYAL,
Under Secretary to Government,
Central Provinces.

Memorandum No. Q-II, dated Yeotmal, the 9th September 1936.

From—The Deputy Commissioner, Yeotmal,

To—The Under Secretary to Government, Revenue Department, Central Provinces.

SUBJECT.—*Final report on the working of the debt conciliation board, Kelapur.*

REFERENCE.—*Your memorandum No. 1903-1758-XII, dated Nagpur, the 16th May 1936.*

The percentage of instalments which were not paid and for which coercive proceedings under section 13 of the Debt Conciliation Act had to be instituted was 8.5. The amount involved in these defaulted instalments and the amount of instalments voluntarily paid was Rs. 2,786 and Rs. 30,882-6-6, respectively.

A statement for the whole period in the form of monthly progress report is herewith enclosed.

FORM No. V

Progress return of the Debt Conciliation Board, Kelapur taluq, in the Yeotmal district, for the period from the 11th June 1934 to the 31st December 1935.

Cases pending at the beginning of the period		Cases registered during the period		Cases disposed of during the period							
				Dismissed under section 7 (1)		Agreements executed under section 12 (1)				Cases dismissed under section 14	
Number	Amount involved	Number	Amount involved	Number	Amount involved	Number	Amount involved	Amount due to those who agree	Amount in agreement	Number	Amount
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
			Rs.		Rs.		Rs.	Rs.	Rs.		Rs.
..	..	807	26,38,651	97	2,05,705	482	17,28,605	15,49,125	10,25,918	228	7,04,341

Cases pending at the close of the period		Agreement ceased to subsist under section 13 (1)			Number of certificates issued under section 15 (1)			Number of days the board sat during the period
			Amount in agreement					
Number	Amount	Number	Original	As compounded	Number of cases	Number of certificates	Amount due to the creditor against whom certificate is granted	
(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)
							Rs.	
..	..	..	..	..	130	218	2,36,774	307

S. C. CHOUDHARY,

Chairman, Debt Conciliation Board, Yeotmal.

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REPORT

ON THE WORKING OF THE

DEBT CONCILIATION BOARDS, NARSINGHPUR-GADARWARA

3rd April 1934 to 31st December 1936

NAGPUR
GOVERNMENT PRINTING, C. P. & BERAR
1937

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REVIEW ON THE WORKING OF THE DEBT CONCILIATION BOARDS IN THE NARSINGHPUR SUB-DIVISION OF THE HOSHANGABAD DISTRICT

Nagpur, the 14th April 1937.

No. 1374-508-XII.—The board was established for the Narsinghpur and Gadarwara tahsils of the Hoshangabad district on the 3rd April 1934 for a period of one year. This period was extended up to the 2nd May 1936 and the sub-divisional board was split up into two boards, one for the Narsinghpur tahsil and the other for the Gadarwara tahsil with a common chairman. In May 1936 the pecuniary jurisdiction of each board was raised from Rs. 25,000 to Rs. 75,000 and their term was extended up to the 31st December 1936. Thus these boards were working in the Narsinghpur sub-division for a period of two years and nine months. Mr. Sheikh Elahi Baksha, Subordinate Judge, was chairman and was assisted by eight members representing moneylenders, landlords and tenants. During the period that the boards sat 5,317 applications were received for conciliation of debts amounting to Rs. 96.73 lakhs. One hundred and fifty-six applications were dismissed under section 7 (i) of the Debt Conciliation Act and 1,295 applications under section 14 of the Act. Agreements under section 12 (1) of the Act were executed in 3,866 cases for debts amounting to Rs. 57.63 lakhs. This amount was conciliated for Rs. 25.22 lakhs which represents a remission of Rs. 32.41 lakhs or 56 per cent of the demand. 1,304 certificates were issued under section 15 (1) declaring that the creditors had unreasonably refused settlement covering debts amounting to Rs. 9.43 lakhs in all. Thus conciliation was effected in 73 per cent of the total number of applications presented to the boards for conciliation.

2. The bulk of the debt which the board was required to conciliate represented advances taken from moneylenders. In addition, however, the chairman received a number of applications for conciliation of rental arrears. In dealing with these the chairman followed the practice of requiring the debtor either to deposit a portion of these arrears to be produced on the date of the hearing with a further direction that the balance should be paid off before the conclusion of the proceedings and in only one case were instalments for payment of arrears actually fixed.

In dealing with taccavi the chairman followed the procedure prescribed by referring these cases to the Commissioner. As a large portion of the amount due to Government had already been remitted and as these debts did not contain the element of accumulated interest which it is one of the objects of conciliation proceedings to alleviate, no remission was effected.

3. The method of conciliation adopted was generally the fixation of easy instalments spread over a number of years fixed well within the paying capacity of the debtor. That the instalments were fixed with due regard to the debtors' paying capacity will appear from the fact that they rarely exceeded the annual rental instalment. The total number of instalments fixed varied

in individual cases, the largest number being 28. Of a total number of 3,866 cases, the instalments fixed were less than 12 in 2,093 cases, and in just over half the total number, the instalments fixed did not exceed 10. In addition to the conciliation of debt by fixation of future instalments the chairman effected conciliation in 258 cases, partly by sale, lease or surrender of land.

4. As might be expected the cases easiest to deal with were unsecured debts but the chairman and his board were successful in the conciliation of secured debts also. In 73 per cent of the cases involving Rs. 24.52 lakhs which were secured by mortgages the board was able to effect conciliation and obtain a remission of Rs. 13.69 lakhs or 56 per cent of the demand. In dealing with usufructuary mortgages the chairman and the board experienced greater difficulty but nevertheless settled 337 claims amounting to Rs. 2.58 lakhs for Rs. 1.04 lakhs and effected a remission of 60 per cent.

5. The first batch of the instalments for repayment of conciliated debts fell due on the 1st June 1936. The Deputy Commissioner reports that out of 5,320 cases in which instalments fell due for recovery on this date applications for recovery were made in 15 per cent of the cases and represented 23 per cent of the total amount due for recovery. Considering the circumstances of the Narsinghpur sub-division this fact shows that the instalments fixed were generally reasonable.

6. The chairman was unable to make an absolutely accurate estimate of the proportion of debts brought before the board incurred for agricultural and non-agricultural purposes, respectively, but he estimates that about two-thirds of the debt incurred by persons whose cases came before the board had been incurred for non-agricultural purposes and only one-third represented debt taken for the expenses of cultivation. The chairman's estimate agrees generally with that of other boards and shows that there is considerable room for conciliation of debt without risk of restricting credit of the agricultural classes for purely agricultural purposes.

7. Government has noted with great pleasure the success attained by the operations and expresses its thanks to the chairman for his zeal and energy and to the members of the boards for their ungrudging sacrifice of their private time and leisure, in particular, to Messrs. Radheraman Khazanchi, Mahajan Raghubir Prasad, Rai Sahib Laxminarayan Mushram, Mohammad Yakub Khan and Modi Shéo Prasad who were members of the boards and to Seth Hansh Raj Oswal of Station Ganj, Narsinghpur, who, though not actually a member, used his influence to further the work of conciliation, with the happiest results.

By order of the Governor,
Central Provinces & Berar,

C. J. W. LILLIE,

Secy. to Govt., C. P. & Berar,
Revenue Department.

No. 110-G

Hoshangabad, the 26th January 1937.

SUBJECT.—*Final report on the working of the Narsinghpur-Gadarwara Debt Conciliation Boards.*

Forwarded to the Commissioner, Jubbulpore Division, Jubbulpore.

2. The results achieved are detailed in the statement in form V attached with the report, and are quite satisfactory. Conciliation was possible in 73 per cent of the cases and remission secured amounted to 56.2 per cent.

3. Out of 5,320 cases in which instalments fell due for recovery on the 1st June 1936 applications were made only in 15 per cent of the cases and the amount sought to be recovered represented only 23 per cent of the total amount involved in these cases. This is an evidence of the instalments having been fixed with due regard to the paying capacity of the debtors.

4. The various amendments proposed by the chairman are calculated to facilitate the working of the boards and might be examined. I do not, however, agree with his suggestion contained in paragraph 10 of the report to empower the chairman to fine an absentee member. This is an honorary job, and I am afraid the infliction of fines will be followed by resignations which will make the working of any board difficult.

5. It has yet to be seen how far this policy of conciliation has restricted rural credit.

6. The cost of the whole scheme was Rs. 27,700 only as against Rs. 53,000 realized by Government in the shape of court-fee stamps, etc.

7. I agree with the chairman's remarks about the good work done by the members of the boards whose names are mentioned in paragraph 26 of the report.

J. MILES STAPYLTON,

Deputy Commissioner,
Hoshangabad.

No. O, dated Jubbulpore, the 13th February 1937.

Forwarded to the Secretary to Government, Central Provinces, Revenue Department, Nagpur.

H. C. GREENFIELD,

Commissioner,
Jubbulpore Division.

FINAL REPORT ON THE WORKING OF THE DEBT CONCILIATION BOARDS AT NARSINGHPUR AND GADARWARA

(From 3rd April 1934 to 31st December 1936)

I.—Survey of Present Day Indebtedness and Advent of the Debt Conciliation Movement

1. **Survey of indebtedness.**—India is an agricultural country consisting of mostly an illiterate and poor but scrupulously honest ryot. In course of time it became customary with these agriculturists to annually borrow in cash or kind to provide themselves with the necessary seed-grain or bullocks or both, to combine this capital with their own land and labour, to raise their crops and finally to pay off these debts at the harvest time. This practice went on year after year and generation after generation till the economic law of "Diminishing Return" began to make its presence felt and forced the ryot to defer repayments till the year of plenty. It was here that the seed of indebtedness was sown and the evil resulting therefrom was grown.

2. Now with the advance of time, human wants increased and the annual income of the cultivator fell more and more insufficient to pay off these debts. The sowkar on the other hand also needed more and became more exacting than before. He started introducing in his documents of obligations additional clauses and conditions of default which are known to the lawyer as "penal stipulations". Section 74 of the Indian Contract Act was enacted to grant relief against these penal clauses; but the section did not prove very useful as the debtor who had now acquired a habit of reckless borrowing approached the sowkar more and more and accepted any terms proposed by that creditor. Indebtedness thus grew day by day. To help this debtor, our sympathetic Government started the co-operative credit movement with the double object of supplying cheap credit to the cultivator and to check his evil tendency of reckless borrowing. This also did not have the desired effect inasmuch as the debtor could not get any amount of unnecessary loan from the society—it being the object of the co-operative credit society to teach him his first lessons of thrift. The cultivator therefore again fell into the clutches of the village bania who now made the most of his time in squeezing the debtor and dictating any terms he chose.

3. To combat this evil of growing indebtedness in the agricultural and non-agricultural classes alike the Usurious Loans Act of 1918 was passed by the Imperial Legislature, with a view to enabling the civil courts not only to disallow excessive interest but also in suitable cases actually to go behind the document sued upon and further *substitute* and enforce an entirely new and reasonable contract on the parties. The cunning creditor in order to avoid the effects of drastic curtailments from his claim, in a court of law now started various underhand practices like

advancing only Rs. 80 and in some cases Rs. 50 for every bond of Rs. 100, inserting monstrous figures of past and future interests in the documents, deducting interest in advance, taking collateral securities of pawn or pledge of cattle and ornaments for items included in the consolidated amount in the document, taking possession of debtor's land in lieu of interest so as to secure about 50 to 75 per cent per annum, etc. The Usurious Loans Act also thus failed in its mission and the debtor was plunged into his present day indebtedness.

4. To add to his misfortunes the economic depression overtook the whole world and reduced the prices of the debtor's lands and their produce. To this were added a succession of lean crops year after year with the result that the debtor's lands began to be lost in quick succession at execution sales for insignificant prices, and the courts could not help the unfortunate debtors. Rule 11 of Order XX, Civil Procedure Code, was then amended to empower the civil courts to grant instalments to the judgment-debtor even *after* the passing of the decree and without the consent of the decree-holder. This too did not protect the poor ryot as the amendment enabled the civil court to grant instalments only in respect of the entire decretal debt. The debtor who could not pay the whole decretal debt in a lump sum could not also pay the big instalments fixed under rule 11 of Order XX, Civil Procedure Code, his paying capacity having now gone down ridiculously low.

5. **Advent of debt conciliation movement.**—The sale of agricultural lands for nominal values was thus not averted and the situation now engrossed the serious attention of all Local Governments with a problem to save these ryots, the backbone of India. It was considered desirable that a scheme should be available which should bring drastic curtailments in the claims of the sowkar and make the rest payable by easy instalments within the reach of the low-paying capacity of the debtor. It was recalled that, with the help of the Government officials and some non-official panchas, debt conciliation was done in our own province as early as 1896—1900 and 1907 with a greater or less success. It was therefore decided to try that experiment again. Our Local Government, therefore, half-hopeful, half-doubtful of the success of the scheme in these changed days of democracy, especially when the measure threatened a loss of rural credit on which depends the very existence of the cultivator, hurriedly pushed the Debt Conciliation Act of 1933 through the gates of Local Legislature and soon converted it into the Law of the Province. The present campaign was thus launched against rural indebtedness.

II.—Establishment of Debt Conciliation Boards

6. The Debt Conciliation Act provides for establishing a debt conciliation board consisting of a chairman and some members who should bring the debtor and the creditor together and persuade them to curtail the debt and take the rest by easy instalments. The whole of the province needed these boards. But in view of the expenditure involved and in view of the measure being only in an experimental stage debt conciliation boards

could not be simultaneously opened in all the districts and their tahsils. It was therefore decided to try the experiment only in the most afflicted areas. The northern districts of the province were found to be hard hit by successive failure of crops and were selected for trial. In the middle of the year 1933 the Khurai and Seoni debt conciliation boards were started. About a year later the Balaghat and soon after our Narsinghpur debt conciliation boards were established to lighten the burden of the local agriculturists.

7. **Establishment and the term of our board.**—The debt conciliation board, Narsinghpur sub-division, was established for a period of one year with effect from the 3rd April 1934 by Notification No. 926-896-XII, dated Nagpur, the 15th March 1934. The rush of petitioners for conciliation of their debts soon filled the table cause-list of this period and the Government was pleased to extend the board up to the 2nd May 1936 by Notification No. 1377-1185-XII, dated Nagpur, the 20th April 1935, when the sub-division board was splitted up into two boards, *viz.*, one for each of the two tahsils, Narsinghpur and Gadarwara, comprised in the sub-division (*vide* Notification Nos. 1375-1185-XII and 1378-1185-XII, both dated Nagpur, the 20th April 1935). By Government Order No. 1376-1185-XII, dated Nagpur, the 20th April 1935, the pending cases of the sub-division board were allotted to the two boards according to their local jurisdiction. Encouraged by the relief these boards gave to the indebted agriculturists, petitioners came in still large numbers. Moreover, on the representation of the leading malguzars of this subdivision the Local Government was pleased to raise the pecuniary jurisdiction of these boards from Rs. 25,000 to Rs. 75,000 so as to extend the benefit of the measure to these big debtors also. This volume of the old pending and new work extended the lives of these boards to the 31st December 1936 (*vide* Notification Nos. 935 and 936-1001-XII, dated Nagpur, the 29th February 1936). The Narsinghpur-Gadarwara boards have thus been in existence for a period of two years and nine months from the 3rd April 1934 to the 31st December 1936. In this space of 1,003 days,—

715 days only were the net working days of these boards.
13 days were spent in seeing the working of the Khurai and Seoni boards.
138 days were Sundays.
95 days were other holidays.
7 days were casual leave days.
25 days were no-quorum days laterly, business was not suspended for want of proper quorum, and conciliation was proceeded with where all parties were agreeable to a settlement.
10 days were no work days, as chairman was otherwise busy.

1,003

Thus actual business was transacted on 715 days only.

III.—Personnel of the Narsinghpur-Gadarwara Boards

8. **Its constitution.**—(*a*) The sub-division board consisted of—

(1) Seikh Elahi Baksha, Subordinate Judge—*Chairman.*

Members.

(2) Rai Sahib Laxminarain Mushran.
(3) Mahajan Raghubir Prasad of Singhpur.
(4) Ch. Hulkarsingh of Gotegaon.
(5) Rao Sardar Singh of Hiranpur.
(6) Khazanchi Radheiaman of Gadarwara.
(7) Pethia Lachman Dass of Khulri.
(8) Pethia Tarachand of Bandha.
(9) Rao Rampratap Singh of Bilehra (now deceased).

(*b*) As the attendance of the non-resident members was found to be poor on account of the inconvenience involved in leaving their distant houses and attending the sitting of the boards the following two resident members were added later on for the sittings at Narsinghpur and Gadarwara respectively :—

(1) Mohammad Yakub Khan of Khandeli,
(2) Modi Sheo Prasad of Khandeli, and
(1) Seth Shrikrishan Dass of Gadarwara,
(2) Shukul Tikaram of Pithehra.

9. **Selection of members.**—Members of a debt conciliation board serve a useful purpose in the actual conciliation of debtor's debts; for, the persuations of two or more persons commanding confidence of the people are more effective than the persuations of one man only. I was fortunate in the selection of the members of my board except for their absence without sufficient cause. So long as the foundation of the Debt Conciliation Act stands on the will of the sowkar, members of the board should always be selected from public-spirited gentlemen possessing some knowledge of accounts and wielding some influence in the locality. They should be persons realizing their responsibilities in the act of accepting membership of the board. Unlike an honorary magistrate who commands a certain amount of prestige and influence and who has to sit in court only for a few hours and on certain days of the week, a member of the board has to sit daily in the board from 11 a.m. to 5 or even 6 p.m. throughout persuading the unwilling sowkar to settle his claim in a suitable manner and, more often than not, only to swallow the bitter answers of the refusing creditor. I would here emphasize the necessity of selecting at least three resident members representing different shades of opinons, from the headquarter place of each board. These resident members can always be safely fallen back upon even on days when it is not their turn to attend and the quorum of the day will never be missing. The members of my board represented the creditor, the debtor, the malguzar and the tenant classes and came from different quarters of the sub-division.

10. **Quorum.**—At a late morning tea party arranged at the chairman's bungalow all the members met to discuss the Debt Conciliation Act and its usefulness to the agriculturists. The main provisions and the objects of the Act were explained to the

members. It was further shown what a stupendous task lay before them. Convinced of the charitable nature of the movement which the Government had started at a heavy cost of expenditure and loss of much revenue (in court-fees on civil suits), only in the cause of relief to the ryot, their own people, the members resolved to do their utmost in the discharge of their duties and also determined to forego their travelling allowances which the rules permitted them to draw. To accommodate these volunteers in the cause of relief to the indebted agriculturists it was arranged that any two or more members will attend the sitting on two or three days to form the quorum by mutual consent and allow the remaining members to rest at home till their turn brought them to the board. To further accommodate these members and to save the villagers from coming over long distances to attend the board, it was arranged that the board shall hold its sittings at Narsinghpur and Gadarwara in alternate weeks. This arrangement required any two or three members to attend the board only on two or three days in a fortnight, and worked fairly well for about eight months when the novelty of the work being over the attendance of members began to dwindle away and necessitated the addition of the resident members as shown above. There was thus no difficulty about quorum except, in the last eight months of the existence of these boards. Our experience of these last days of the board's existence in the matter of quorum was not a pleasant one. Repeated letters of request went unheeded by certain members who promised to come and would not come, without any sufficient cause. The inconvenience which repeated adjournments caused to the parties, on account of the missing quorum was in certain cases intolerable. In view of the impending close of the boards no more adjournments could be granted and there was no remedy but to dismiss the cases for one reason or the other. To meet such difficult cases of absence of members without sufficient cause after their acceptance to attend on certain days, I am inclined to recommend that the Debt Conciliation Rules should be so amended as to include a provision empowering the chairman of the board or preferably the Deputy Commissioner to fine a defaulting member with an amount not exceeding Rs. 10 per diem.

11. Two clerks Ajmersingh and Choudhary Har Govind were allotted to these boards. They were fresh hands except for one or two months' previous experience of tahsil clerkship. The work which came to these boards and the multifariousness of the duties these clerks had to perform were too much for them. A change in the middle of the board was not considered desirable. The mistakes they had committed at the beginning troubled them to the last. All the same they worked hard and may be tried in other places. I would recommend that when a board is opened at least one experienced clerk versed in office routine, who should grasp the importance of an instruction given, should always be attached to the new board. This will avoid much future inconvenience to the parties and the connected offices.

IV.—The Board at Work, and the Difficulties Experienced

12 Early days of the board.—Immediately after the opening of this board a circular letter was issued to the patwaris of

the sub-division instructing them to intimate to the villagers of the establishment of this board and asking them to make applications for conciliation of their debts. A requisition was meanwhile submitted to the Deputy Commissioner, Hoshangabad, through the Sub-Divisional Officer, Narsinghpur, for furniture, stationery and forms of Revenue Order sheets and of creditors' notices under section 8 (1) Debt Conciliation Act, besides other forms prescribed by the Act. Later, when the supply of creditors' notice forms was delayed, letters of request for loans of these forms were vainly issued to the Khurai, Seoni and Balaghat boards. The offices of the Deputy Commissioner, Hoshangabad, and the Sub-Divisional Officer, Narsinghpur, which had indented for their own requirements of stationery and forms long before the establishment of this board, had themselves run short of these supplies and could spare only a small supply of the stationery and forms for us from time to time. Our Deputy Commissioner secured us some forms of creditors' notices from outside, but this supply was soon exhausted. The progress of our work was thus considerably retarded for want of these forms under section 8 (1) these being the first requirement to bring the sowkar in the board for conciliation of his claims. Work was, however, pushed through with the help of supplies of stationery and forms received from time to time, and the purchases made in the bazar. Notice forms were cyclostyled but this process could not bring us our daily requirement of 200 forms per day at the rate of 10 forms being necessary to be issued to 5 creditors on an average, of each case besides 6 forms being required to be issued for publication of the notice. Thus notices were issued in only some of the cases fixed for each day according as the forms were printed and the processes were prepared on them. This handicapped our conciliation work a good deal, till our supply of forms and stationery was received in November 1934 and we issued notices to creditors in all the 10 or 12 cases fixed for each day of February 1935 and onwards, allowing about 15 days' time for preparation and service of these notices and about 2½ months' time for preparation and submission of creditors' statement under section 8 (1) Debt Conciliation Act.

13. The youth of the Board.—The board thus functioned in right earnest from February 1935. Each day of the sitting brought in large number of parties including debtors, creditors, their friends and relations. These were not infrequently joined by spectators who had come to attend their own work in other courts and offices. Their presence enlivened the whole office of the board and its surroundings. This host of simple rustics was seen to put on cheerful looks as it now saw a ray of hope in the matter of their salvation. They were pleased to see the relief that was being given at conciliation of their debts and the debts of their fellow sufferers. It was not uncommon for these visitors of the board to cry "Sarkar ki Jai" and to remark that the Government had come to their rescue at an opportune hour and saved them from their impending ruin. In fact the whole place assumed the shape of a big fair. The local railways, the taxi-pliers, tea and sweetmeat vendors, fruit and pan-bidi sellers and above all the stamp vendors and the petition-writers had a prosperous time.

14. Debts that came up before the Board and the treatment meted out to them.—The Debt Conciliation Act requires the creditor to put in all of his claims before the board so as to enable it to try and see if all or any of them can be conciliated. The indebtedness which thus came before this board may be grouped as follows:—

(*a*) *Debts due to Government on account of land revenue, and debts taken under the Agriculturists' Loans Act and the Land Improvement Loans Act.*—These are not conciliable under the Act and were consequently excluded from the agreement of conciliation scheme, their conciliation being rightly left for consideration of the revenue authorities in suitable cases only, in view of the fact that these loans do not contain that element of excess claim which it is the object of this measure to eliminate.

Section 22 of the Debt Conciliation Act requiring the board to report these outstandings of Government dues to the Commissioner was found to be difficult in its working inasmuch as the illiterate debtor could not show his actual liabilities and their nature under this count. The tahsil staff also found it inconvenient to trace out this information for the board in so many cases from time to time. The Government who are interested in the welfare of their ryot are already doing their bit to help these debtors in matters of repayments of these loans. It will save a good deal of time and labour of the Government offices if instead of sending these reports the boards are required to direct the debtors to approach the revenue authorities in the light of their conciliation in the board and pray for such convenience of repayments as may be possible, the board being required to state, in the case order sheet or agreement, the maximum paying capacity of the debtor and the extent to which it is tied in the agreement.

In keeping these debts out of the agreement a portion of the debtor's paying capacity was ever set aside by us to enable the debtor, to pay off these dues within six years', and in exceptional cases, within nine years' space of time.

Debts recovered as arrears of land revenue have also been excluded from the agreement with a provision for payment as above. In fact the whole or a major portion of this item, as also in the case of Government land revenue arrears, has been successfully tried to be paid off in most of the cases, as a condition precedent to the conciliation of the petitioner's debts.

(*b*) *Rental arrears.*—At the beginning of these boards petitions showing heavy arrears of rents were not accepted. Later on when the revenue instructions disclosed that these were liable to be conciliated, petitions showing these arrears began to be registered, but the debtor was either made to deposit at least a portion of these arrears with some pleader for being produced on the date of hearing and the rest was directed to be produced on or paid off directly by the date of hearing. These debts were thus never conciliated except in one solitary instance of a malguzar who agreed to take these arrears by easy instalments spread over three years only. Payment of these arrears in cash or by sale of a portion of the debtor's land was as a rule made a condition precedent to the agreement inasmuch as the absence of

these arrears was found to give the proposed scheme of settlement a workable shape for the benefit of the debtor and also secured the creditor's consent to the settlement who now saw that the debtor's land being free from rental arrears was now more likely to be saved from sale or ejectment proceedings and thereby afford some chances of repayment of his instalments.

In cases where the arrears of rent were not heavy in view of the lands and their value, these arrears were kept out of agreement and directed to be paid off privately. In other cases of heavy arrears which were not paid off or cleared by the adjourned date of hearing, petitions were dismissed as hopeless unless the whole lot of creditors agreed to conciliate in spite of heavy arrears. But such cases of conciliation were not many.

(c) *Debts due to Co-operative Credit Societies.*—These debts being actually due to the Central Banks notices under section 8 (1), Debt Conciliation Act, were issued to the Central Banks only in keeping with our arrangement made with the bank authorities. As these banks have been started with a view to help the cultivator by supplying him cheap credit at low rates of interest and as these banks have to pay interest to the depositors who must be paid their deposits whenever demanded, the petitioner's debts naturally could not admit of conciliation except in rare cases of the debt having gone bad or doubtful. These debts therefore could not be conciliated freely and were generally kept out of the agreements to be settled separately with the bank authorities who were ever ready to help these asamis of theirs within certain limits. In these cases of exclusion of the bank's dues from the agreement, no certificate under section 15 was issued against the bank, in cases where the debtor was an occupancy tenant only or possessed only a small portion of saleable lands or where his land stood mortgaged to the bank. In the rare cases of agreements where the debtor's other secured creditors agreed to take less by instalments or by transfer of a portion of the debtor's land and thereby enabled the debtor to settle his other unsecured debts due to other creditors, for 50 per cent or even less than 50 per cent of their claims, was a certificate issued under section 15, Debt Conciliation Act, to protect the debtor and his agreeing creditors against the attacks of the outgoing bank. But such cases of issue of certificate were few and far between.

In cases where the bank authorities expressed their consent to a certain form of conciliation, a memorandum of the settlement was sent to the Registrar, Co-operative Societies, Nagpur, requesting his consent or otherwise to the proposal. This required the Registrar to correspond with the Central Banks whose officers would make necessary enquiries on the spot and submit their report to the Registrar who would thereafter communicate his sanction or otherwise to the board. This generally took more than one hearing and the agreeing creditors began to resile from their original agreement and invariably absented themselves from these subsequent hearings of the board. This usually lost to the debtor the benefit of the scheme made with his other major creditors. If, on the other hand, the agreement was completed on the date of settlement and registration fees were levied from the agreeing creditors, except for the signature of the bank pending the arrival of this sanction a great inconvenience was felt in cases

of the sanction being withheld or a new term being proposed by the Registrar for debtor's acceptance. The inconvenience thus caused to the parties including the debtor can only be imagined. To secure the debtor against all chances of dislocation of the settlement scheme it was customary with these boards to complete the agreement in all respect on the date of conciliation except for the signature of the bank's clerk in cases of the private sowkars controlling the 40 per cent rule enunciated in section 12 of the Debt Conciliation Act, levy the registration fees from the agreeing creditors and then to give a date for completion of the agreement by the signature of the bank clerk after the Registrar had sanctioned the agreement. On the date of the adjourned hearing or the subsequent date to which the case stood adjourned, the signatures of the bank clerk were obtained on the agreement which was then signed and dated as complete, by the board members and sent to registration. In case the sanction was not given the agreement was completed as above but now without the signature of the bank clerk, bank being then excluded from the agreement. This arrangement worked well and the two sister institutions progressed satisfactorily.

To save a good deal of the time of the board and of the parties it would not be undesirable to remove these debts of the ryot from the jurisdiction of the board, and at the same time providing for the Registrar's powers to give suitable convenience to the debtor where his other debts have been conciliated in a board.

(*d*) *Agricultural debts and non-agricultural debts.*—The Debt Conciliation Act makes no distinction in these two kinds of debts due from the cultivator. If the petitioner is a *bona fide* agriculturist the conciliation of his strictly agricultural debts would be rendered useless if for recovery of his non-agricultural debts his lands are allowed to be freely sold off. The conciliation of both these kinds of debts was therefore made without any distinction.

Being possessed of an opportunity to know the real proportion between the agriculturist's *bona fide* agricultural indebtedness, and his non-agricultural indebtedness, these boards made frequent efforts to find out the purpose of each loan in a number of cases. But their attempts were ever frustrated on account of the proverbial forgetfulness of the debtor, the ignorance of the deceased borrowers' heir before the board, and the cent per cent statement of the shrewd creditor that the loan was advanced for legal necessity like payment of land revenue, rental arrears, or purchase of bullocks and seed grain, or for putting in a bandhan in the debtor's field, etc. To this was added the other difficulty of sifting from a consolidated account contained in the renewed document as to what was borrowed and for what purpose. Though these boards were thus disabled from collecting facts and figures in a large number of cases, which could be presumed to be representative of these classes of indebtedness, yet inquiries made in a large number of cases go to show that at least 10 annas per rupee of his indebtedness was incurred for non-agricultural purposes like extravagant expenditure on social rites and religious ceremonies, unnecessary purchase of new lands for fabulous prices and taking lands on leases for amounts which no prudent man

would ever in his senses agree to pay, etc. The remaining 6 annas of his indebtedness appears to have been due to the debtor's *bona fide* requirements as an agriculturist, *viz.*, for payment of rents and revenue, purchase of bullocks and seed grain, and his family maintenance in the years of crop failure, besides some legitimate expenses of civil litigation and social rites. The former class of indebtedness includes also the unjust and heavy nazrana claims of the malguzar where tenancy land was acquired under a sale, or inherited by a relation other than the son or grandson of the last holder.

In our conciliation scheme the non-agricultural debts were curtailed to the maximum degree consistently with the creditor's margin of refusal.

(*e*) *Debts due as arrears of lease money and nazranas dues.*—In the post-war days of good prices of agricultural produce, many families took lands on leases for big amounts year after year in the hope of making profits and finally executed documents for the heavy lease-money arrears which were left unpaid in spite of the debtor's entire crop having annually gone to the lessor. Similarly speculative purchasers of new lands and enthusiastic heirs of a deceased tenant readily undertook to pay the last holder's unreal and accumulated debts, and agreed to pay huge nazrana of the malguzar with the result that their annual income went to the malguzar and to the sowkar, and made the unfortunate purchaser and the heir more miserable year by year.

These debts were curtailed heavily as has already been pointed above in our conciliation schemes.

(*f*) *Debts incurred as surety.*—In these cases of debts the board ever put the liability on the right shoulders and secured the discharge of the surety in about 95 per cent of cases. Only in these remaining 5 per cent of cases where the principal debtor was found to be insolvent and unacceptable to the creditor did we allow the liability in whole or in part to be consolidated with the surety who in turn was allowed to claim that amount on principles of contribution, as against the principal debtor in the latter's petition for settlement. This surety creditor was prevailed upon to give good remission to his debtor when he had formerly helped him in his hour of need, by standing surety for that principal.

(*g*) *Debts due on joint and several liabilities.*—These were conciliated on the principles pointed out in the preceding lines only. The advantage of splitting up a joint and several liability in proportion to the actual burden of each co-debtor cannot be over-exaggerated; for, it is not infrequently found that one co-debtors' property is sold on default of payment by his other co-debtor.

(*h*) *Debts of the father or grandfather where no saleable interest has been inherited by the son or grandson.*—A very false notion prevails in the villages about the Hindu Law theory of the son's pious obligation to pay off his father's and grandfather's debts. It is generally believed amongst the villagers that the liability exists in all cases irrespective of the receipt of any assets from the ancestor. How many of these debts of monstrous sizes were found to be acceptable by a widow or a minor son who had never received any property to pay the debt from. We generally persuaded the sowkar to remit these claims but in some cases

the debtor himself requested for a settlement of these debts and we obtained huge reduction in these cases. The debtor was meanwhile instructed not to execute fresh documents for the remitted amount. Similarly minor's debts which could not be legally enforced against him in a law court as being incurred by his mother and others for no legal purposes were wiped off in their entirety, or enormously curtailed and settled to set the disputed claim of the sowkar at rest.

(*i*) *Bogus debts.*—This class of debts though not known to the petitioners in the early days of these boards became fairly common in the latter half of their existence as they play an important part in the act of conciliation under section 12, Debt Conciliation Act. The petitions containing such debts were rejected as a matter of course and this accounts for the dismissal of so many cases under section 7 (i), Debt Conciliation Act. In cases of substantial doubts as to the genuine nature of a debt only, were such claims entertained and settled.

(*j*) *Disputed debts.*—The Debt Conciliation Act provides for no binding decision being given by the boards on the existence or otherwise of a disputed debt. These debts were as a rule settled for a nominal amount where chances of their being decreed in civil courts were apparent. The Debt Conciliation Act, however, be amended so as to empower boards to adjudicate upon the existence or otherwise of these debts and to give this decision a binding force.

15. Rates of interest.—The usual rates of interest prevailing in the sub-division was 24 to 40 per cent per annum. In certain possible cases the regular payment of annual interest was secured by obtaining possession of the debtor's land in whole or in part. The Gadarwara tahsil seemed to have especialized in this mode of collection of annual interest which at times amounted to ever 80 per cent of the sums advanced. Even the lately inherited one or two acres of land could not be permitted to be with the asami or his wife. To cite only one out of many instances: in Revenue Case No. 1172 of 1934-35 of the Gadarwara board disposed of on the 21st October 1935 the creditors' ancestors took possession of debtor's 26.33 acres of land, rental Rs. 64, for repayment of Rs. 275 found due on old account, on condition that the usufruct will be applied towards rent, then towards interest and then towards principal, and that the unsatisfied balance, if any, shall be paid in 1935 after the expiry of 45 years. At the end of 47 years the creditor still claimed Rs. 2,003-3-0 in the board. The annual profits of the mortgaged land of Rs. 64 rental could never be less than Rs. 150 if cultivation can be said to be a paying concern to the least extent. Now what should be the rate of interest enjoyed even if the principal amount of Rs. 275 only were claimed by the creditor? These and such like cases are harder than long-term pattas under which land is held by the creditor to satisfy his claim, for the debtor in such cases is ever at the mercy of the creditor and has no chances to redeem his property at any time, unlike pattas cases where the debtor or his successor at least hopes to get his property back at a time howsoever remote. The rate of interest prevailing in the sub-division on an average easily works out to 40 per cent per annum.

16. The sowkars who came before the board and their attitude towards the debt conciliation movement.—Encouraged by the large profits the business yielded persons of all classes and occupations took to money-lending and began to exploit the ignorant cultivator. Thus Musalmans, Hindus, including Brahmins, Marwaris, Kalars, Telis, Banias, Kaors, Darjis, Sunars, Kumhars, Nais, Bairagis, etc., all came before the board, under section 8 (i) of the Debt Conciliation Act.

Musalmans.—These were the heirs of the deceased creditor Munshi Ahmed Khan of Station Ganj, Narsinghpur, Baboo Khan of Gadarwara and the Malguzars of Rankai and Katkuhi, besides one Nabi Bux of Mowar. The first two-named creditors only were found to possess money-lending of an appreciable extent. Their dealings were fair and the creditors behaved well in the board.

Marwaris.—These were found to have sufficient business in Narsinghpur and Gadarwara proper. Their dealings were fair in some cases though not in all. These also had a greater or less sympathy for the debt conciliation movement.

Kalars.—These are old moneylenders having an extensive business in Singhpur, Amgaon and Bhainsa of the Narsinghpur tahsil and in Sainkheda and Gadarwara proper of the Gadarwara tahsil, having their stronghold in Singhpur and Sainkheda. These also behaved fairly well, except for the bad spirit shown by Mahajan Maharaj Singh and Mahajan Jiwanlal, both of Singhpur.

Telis.—These are mostly found in Khulri and Bandha of the Gadarwara tahsil and in Kandeli of the Narsinghpur tahsil. They do money-lending on a large scale, and displayed a conciliatory spirit in most of the cases.

Kaoras.—These are spread all over the Gadarwara tahsil doing petty business in the vicinity of their own villages. Their dealings were generally found to be tainted with mischief of one kind or the other. They were made to do well in the board except in the cases of a handful of them, for the reason that a bulk of petitioners came from the Kaora community.

Kumhars, Luhars, Darjis, Sunars and Nais.—These were isolated cases of one or more individuals only, and did well in the debt conciliation board except for Munnoo Darji of Kandeli who was found to be very unreasonable.

Jats, Bairagis and Gola Purabs.—These also were found to own a greater or less money-lending business round about their own villages of residence. They behaved well, except for the attitude of Raghuraj Singh Jat of Baskhera.

Brahmins and Banias.—The former were found to possess a fair amount of business in Narsinghpur, Chawarpatha, Azanda, Kosamkheda and Chhitapar, in fact places of the residence of the sowkar and its vicinity. In a majority of cases their transactions were found to be very hard and unconscionable and their terms very exacting. Unfairness at every step characterised their dealings. The documents held by the deceased Shukal Girdharilal of Azanda and his sons, if perused will serve as good examples. This

class of moneylenders was therefore most reluctant to view the debt conciliation movement with any favour and except for the pressure of postponement under section 12, as read with section 15 of the Debt Conciliation Act, never conciliated on reasonable terms favourable to the debtor. The Banias like Singai Gulabchand of Pindrai in the Narsinghpur tahsil, especially the subcaste Modis, like Puranlal Mallooprasad, and Chandrabhan Chhunilal, both of Narsinghpur, Durgaprasad of Panari, Tarachand Kunjilal of Kondia, Chhotelal Deviprasad of Palona, etc., were true to their caste and put in all kinds of obstacles in the affairs of the board. Their calous hearts had no room for any sympathy to the being who had made them rich. They tried to suck out the last drop of blood left in their asamis. Their conciliations as a rule were very disappointing, except for the typically noble spirits shown by Khazanchi Mohanlal of Gadarwara in freely accepting repayment of reasonable sum by instalments or by sale where instalments could not be fixed, in easily splitting up his mortgage security even in cases of decrees and in short accommodating the debtor in all possible manner like leaving his residential big village and satisfying himself by separated and low-priced properties.

Malguzar creditors.—This class of creditors was as a rule found to be a regular parasite on the tenantry. All payments made by the tenant-debtor went towards the highly inflated and unreal claims of the malguzar-creditor and decrees after decrees for arrears of rent were piled up to harass the tenant and ever keep him under his bondage. This class of moneylenders in most of the cases was not afraid of section 8 or 15, Debt Conciliation Act, as the debtor was ever within their full grasp.

16-A. Some noble creditors.—The board had a pleasant time with some creditors like Khazanchi Mohanlal of Gadarwara, Mahajan Raghubir Prasad of Singhpur, Mahajan Chhotelal of Singhpur, Rao Ramprasad of Nijor, Sarbhanpuri Gusain of Bhutkheda, Mohd. Yakub Khan of Narsinghpur, Thakur Rudra Pratap Singh of Manegaon and C. V. Vidya of Kandeli. All these creditors showed a very sympathetic attitude towards the debt conciliation movement.

V.—Conciliation of Debts

17 (*a*) The Debt Conciliation Act provides—

(i) that debtors, or creditors of the same debtor or set of debtors, shall apply to the board for conciliation of their debts;

(ii) that on receipt of this petition of debtor, his creditor or creditors shall be called upon to submit a statement of their entire dues in respect of all claims outstanding against the petitioner;

(iii) that if the claim or claims of any creditor or creditors are not submitted within the over two months' period prescribed by section 8 (i), Debt Conciliation Act, those claims shall for ever stand discharged;

(iv) that after going through these statement of accounts submitted by all the creditors whether disclosed in the petition or not and after ascertaining the proper dues of the creditor by questioning the parties, the boards shall try to so curtail the dues of each creditor as to put the curtailed amount within the paying capacity of the debtor;

(v) that if the whole lot of the debtor's creditors, or at least his 40 per cent debt owing creditors agree to take their curtailed amounts by easy instalments spread over a reasonable number of years an agreement containing the terms of this amicable settlement, shall be reduced to writing and got registered within one month from the date of its execution, and that the disagreeing or the out-going creditors shall be precluded from recovering their dues until all the instalments fixed in the agreement have been paid off or the agreement has ceased to subsist by virtue of the Deputy Commissioner certifying that the amount fixed in the instalment is irrecoverable.

Thus the Act provides for two penalties, *viz.*, (i) the discharge of debts in case no account is submitted within the prescribed period and (ii) the postponement of the non-agreeing creditors. The first penalty was easily got over by recalcitrant sowkars submitting their statement within time and the second penalty was attempted to be overcome by all the creditors or at least over 60 per cent debt owing creditors joining hands and refusing to conciliate. It was here that the board had to exert and so explain the legal positions of the sowkar's claims as to make them agree to the proposed terms.

(*b*) The Act does not penalize the sowkar's omission to mention in his statement of account the history of each debt as required by section 9, Debt Conciliation Act. To enable the board to determine what is a fair amount of each debt to be awarded so as to bring to the sowkar at least his principal if not interest, this history of each debt is absolutely necessary to come on the sowkar's statement. The penalty of discharge appears to be a suitable remedy for creditor's omission to trace the past history of each of his claims in his statement of account. The present amendment requiring each statement under section 8 (i) to be verified may not be a suitable remedy or check inasmuch as a conviction on a guarded verification will not be easy to obtain. In our boards some of the obstinate creditors always avoided disclosing of the real nature of each loan and we had to depend for the history, on our own conclusions based on the discussion, admissions, and comparison of the past and the present documents held by one and the same parties or their legal representatives.

In our boards the difficulty of incomplete accounts was overcome by my introducing the attached form of statement of accounts, and warning the petition-writers in good time to prepare the statements only on the form suggested by me. This practice gaining strength, only a few creditors could avoid the disclosure of the history of each one of their debts.

The advantage of this form was to find out at a glance what stages a debt had undergone and what was its outstanding principal as also interest and of what rate. The perpendicular totals of the columns of the principals advanced from time to time, as compared with the perpendicular total of the column of repayments made from time to time, at once disclosed the unrepaid principal to which could be added reasonable amounts of interest picked up from the column of interest items. That the items of interest claimed were or were not correctly calculated and charged could also be seen at a glance at the column of interest and its rate, and the adjoining column of period for which interest was charged on this form. The form served us a useful purpose in determining the reasonable amount that should be offered to a particular creditor in the particular circumstances of that case.

(*c*) *Process of conciliation.*—The debtor and his creditors being thus present before the board on the date given for the purpose, each creditor's several claims with separated principal and interest, as also the rate of interest included and the nature of the document on which based, were jotted down on a scribbling book maintained for the purpose, the total liabilities of the debtor were ascertained—time-barred instalment bonds which became due long ago, time-barred instalments, the claims which the creditor could not legally recover from a minor, etc., being all eliminated and left out from the determined amount of debt. This done, we proceeded to ascertain the paying capacity of the debtor which was usually fixed and at one time the rent and revenue assessed on his lands. This standard of paying capacity was however relaxed according as the amount of rent and revenue assessment was found to be more and more. Thus in the case of debtor who paid Rs. 1,000 as rent or revenue the paying capacity was fixed below Rs. 500 and in the case of debtor paying Rs. 4,000 as usual rents and revenue the paying capacity was fixed at Rs. 1,500 or Rs. 1,800. In suitable cases of the debtor growing vegetables, sugarcane, betel leaves or the like, and in cases where he was found to possess other sources of income the paying capacity was fixed at a slightly higher figure. But these cases were very rare. If the minimum curtailed amounts of all the creditors of a debtor could admit of satisfaction within 10 or 12 years or even 20 years, with the paying capacity determined as above, settlement was proposed to be made by instalments. Settlements by transfer of debtor's land were usually discouraged as not strictly falling under section 12 of the Debt Conciliation Act; more so, as that mode of settlement frustrated the very object with which the debt conciliation movement was started. But in cases where the loss of debtor's entire property was threatened by civil court proceedings, sale of a portion of the debtor's land was certainly resorted to, provided this procedure saved for the debtor a fairly good portion of his property, and allowed payment of the remaining debts, if any, by easy instalments spreading over a suitable number of years. Care was however taken to see that the sale is effected for a good price, mostly of predepression days. In settlements by instalments, on no account was future interest howsoever low was allowed and no condition of exigibility or interest on default was inserted. On the other hand, to safeguard the debtor's interest, a

counter condition was inserted to the effect that if on account of failure of crops, the Government revenue and rents are suspended in any year or years, then the board kist of that year or years also shall stand postponed at the orders of the Deputy Commissioner to this effect in the case of a debtor whose land is situated within the affected area. In suitable cases settlement was made by delivery of the debtor's non-agricultural cattle or other moveable property, for 10 to 50 times the value of the cattle or moveable so delivered.

In only about 4 per cent of the cases settled by transfer of a portion of the debtor's land, did we experience some difficulties when the creditor or debtor resiled from his agreement and refused to sell or to buy the land, especially after the agreement was reduced to writing. As settlements by transfer are more readily acceptable to the major sowkar who thereby also brings the 40 per cent rule enunciated in section 12, Debt Conciliation Act, into play, for the benefit of the debtor, and not only saves him from the worries of having to pay big instalments for a number of years, but enables the debtor to begin life afresh with more or less a clean slate of debts. I would therefore recommend the amendment of section 12 (i) so as to include within its scope the settlement made by transfer, with chairman's power to execute the sale-deed for and on behalf of the resiling party, with a consequent amendment of section 13 so as to empower the Deputy Commissioner to put the vendee in possession of the sold out property. If transfers by sale or lease are thus made to fall within the purview of section 12, Debt Conciliation Act, then with a view to popularising this mode of settlement, with the sowkar, it would be necessary to issue revenue instructions directing the revenue authorities under section 6 of the Central Provinces Tenancy Act to consider while fixing the pre-emption price on the application of the malguzar, and take into account the large sacrifices the creditor (vendee) has made in taking that land and helped the agriculturist in his hour of need.

Conciliation by ready payment of cash was also tried. The debtor was not usually found to possess the required cash or ornaments. He was therefore asked to borrow from the land mortgage bank, Narsinghpur, so as to pay off all his creditors and have only a single sowkar in the land mortgage bank, Narsinghpur. Our attempts here did not meet with any success as firstly it was not uncommon for one or more sowkars to stand out of the agreement even though the other sowkars of the debtor were willing to take only 4 annas in a rupee or even less, and the bank would not advance the proposed loan so long as even a single creditor stood out of the agreement. The creditors, secondly, also would not agree to take that small sum only, which the scanty property of the debtor could raise from the land mortgage bank. In some cases the debtor did apply to the land mortgage bank but these boards closed before the loan reached the debtor's hands and the application could not be settled in the manner proposed. In some cases the debtors point-blank refused to go to the land mortgage bank on the ground that while the board settlement charged no interest after the agreement and otherwise accommodated him in his default,

the bank demanded interest and exposed their occupancy lands to sale. The land mortgage bank, Narsinghpur, did not thus prove useful so far as the board operations were concerned. Settlements by instalments or by sale of a portion of the debtor's property were therefore proceeded with a fair margin, however, being always made out of the annual rents and revenue for payment of the Government dues and the central bank's claims when left out of the agreement.

VI.—Results Achieved

18. The following table shows the business transacted by these boards in the 715 days of their working:—

Table No. 1 showing the creditors' cases.

Number	Amount Rs. a. p.
582	1,84,101 13 3

Notes.—(1) This large number of creditors' petitions was due to a wrong belief amongst the creditors that the existence of debt conciliation board precluded them from going to civil courts. But later on when the doubt was cleared they withdrew from the board except in cases of bad debts.

(2) These cases were all disposed by merger in debtors' petitions except for the few cases dismissed as hopeless, when the non-applicant debtor refused to admit the creditor's liability or expressed his unwillingness to file his own petition for conciliation of his debts due to all of his creditors. Conciliation on creditors' petitions were not attempted in these boards for the reason that—

Firstly, the creditor would not mention in his petition the other sowkars of his non-applicant debtor with a view to avoid payment of his process fees, which would in addition curtail the amount of his own instalment in the board, and

secondly, that the agreement made with the petitioning creditor alone would be rendered neugatory when later on the other undisclosed creditors of that asami successfully sue him and proceed against his property by reason of no certificate having possibly been issued against those creditors—the penalty of postponement under section 15, Debt Conciliation Act, not being available against these undisclosed creditors whose debts were incurred before the agreement was registered. These cases were therefore merged in debtor's petitions or dismissed in the absence of debtor's petitions.

(3) The Debt Conciliation Act would well be amended to procure the above procedure, so far as the creditors' cases are concerned.

(4) The amount covered by these cases of creditors' petitions is mostly included in the debtors' petitions whose details are

given below, and may not be treated as a separate debt of the sub-division :—

Table No. 2 showing the debtors' petitions.

Number	Amount		
	Rs.	a.	p.
5,317 ..	.. 96,32,701	4	8

Table No. 3 showing the disposal of these 5,317 cases.

How	Number	Amount		
		Rs.	a.	p.
By dismissal under section 7 (i)	156	2,41,453	7	2½
By dismissal under section 14 ..	1,295	28,49,543	8	8
By settlement under section 12	3,866	65,41,704	4	9½
Total ..	5,317	96,32,701	4	8

NOTES.—(1) The above table shows that about one-third number of petitions as also about one-third amount of total indebtedness could not be settled. The dismissal of these cases was not purely due to the refusal of creditors to conciliate. It was mostly due to the debtors' fault, *e.g.*, the petitioner being an outsider or a non-agriculturist, or if an agriculturist his debt had ceased to exist by virtue of a foreclosure decree passed against him long ago, etc. The details of why this one-third indebtedness went unconciliated would be found in the recapitulation paragraph below.

(2) The above table will further show that these boards succeeded in securing settlements in 73 out of every 100 petitions registered, which is by no means unsatisfactory. This percentage of settlement should be still high when we remember that the number of cases dismissed under section 14, Debt Conciliation Act, includes cases which went unconciliated by reason of debtors' absence or refusal to accept the good terms proposed by the board, and cases which had to be dismissed for causes other than the unwillingness of the sowkar to settle.

Table No. 4 showing the details of disposal by agreement.

	Rs.	a.	p.
Determined amount of debt involved in 3,866 cases.	65,41,704	4	9½
Amount due to those who agreed ..	57,63,370	2	½
Amount for which settled ..	25,22,166	14	0

The above table will show that we succeeded in securing a clear remission of Rs. 32,41,203-4-½ out of the legitimate claims of Rs. 57,63,370-2-½. The remission works out to 56.2 per cent,

in spite of the fact that almost half that sum was secured by mortgages and decrees under execution. This percentage will stand still high when we remember that the amounts due on suretyship contract, joint and several liability system, and time-barred debts which would, of necessity, have gone to form the consideration of new documents for the creditors have all been eliminated from the determined amount of debts given in the above table.

19. Manner of settlement.—(*a*) Section 12 (i) of the Debt Conciliation Act provides for settlement by instalments alone. Our first attempt was therefore to settle by instalments and to discourage settlement by transfer of a portion of debtor's land. This latter mode of settlement was resorted to, in exceptional cases where the dismissal of debtor's petition threatened a loss of his entire property in civil court proceedings. Care was taken to see that the settlement by transfer saves a fair proportion of the property to the debtor and leaves him in a fairly good position to pay off his other creditors, if any, by instalments within his much reduced paying capacity. Welfare of the cultivator (debtor) was our concern. His salvation lay in a suitable agreement only. We, therefore, approached the sowkar from all sides and secured his consent for an amicable settlement. Thus proceeding we secured settlement in—

91 cases purely by sale of a portion of debtor's land,

18 cases purely by lease of a portion of debtor's land,

145 cases partly by transfer and partly by instalments, and

3,612 cases purely by instalments spreading over a suitable number of years.

3,866 Total agreements.

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20. Secured debts.—The Debt Conciliation Act while including a secured debt in the list of conciliable debts, as well as in the list of debts liable to be discharged under section 8 (ii) of the Debt Conciliation Act does not provide for postponement of this debt in spite of the issue of certificate under section 15, Debt Conciliation Act. Thus after the secured creditor has submitted his statement of account within the prescribed period he has nothing to fear the board or its certificate. For, the certificate under section 15 if issued against this creditor only means a petty loss of cost of civil suit and a slight interest, where the debtor is minded to pay the decretal debt. In the event of foreclosure this certificate is simply meaningless so far as the creditor is concerned. In the case of a sale of the mortgage security the creditor loses only his cost which he can bear easily in comparison to what was being deducted from his claim in the board. The certificate on the other hand does not help the debtor as it does not postpone the secured creditor, and the disallowing of cost and petty excess of interest by virtue of the certificate does not save his property from being foreclosed or sold in execution of civil court decree. A secured creditor therefore occupies a strong position in the field of settlement

under section 12, Debt Conciliation Act. His going out of the settlement scheme means no gain to the debtor even in cases of settlement with other creditors. The first attempt of our boards was thus to make this creditor agreeable to a settlement even though at a heavier cost of time and terms. It is gratifying to note that our victories even in this rugged country were as glorious as elsewhere. To properly depict the dark picture of civil litigation and its effects in the present surroundings of economic depression was the key-note of our success. Thus out of the 5,317 cases disposed of by these boards, as many as 2,155 cases included mortgages and charge claims. Out of these 2,155 cases covering mortgages we settled 1,574 cases. The percentage of these conciliations also works out to 73 per 100 cases. Again, these 2,155 cases involving mortgages contained as many as 2,735 mortgage-claims amounting to Rs. 40,19,647-5-7. Out of these we settled 1,840 mortgage claims amounting to Rs. 24,51,837-8-5 for Rs. 10,83,432-8-0. The remission here too works out to 55.7 per cent. While the percentage of settlement of secured debts comes to 67.27.

(*b*) *Usufructuary mortgages.*—These are mortgages where the creditor takes possession of the mortgaged property for a stated number of years in full payment of his debt inclusive of interest. These are technically called "pattas" and always include prospective interest. The debtor here hopes to regain possession of his mortgage property at the end of that period. There are other forms of possessory mortgages in which the sowkar is allowed to appropriate the usufruct of the mortgage security towards interest and then towards principal if the volume of the usufruct so permits, with a condition to pay the balance of the debt at some unduly long future date. These transactions from their very nature are mostly hard and unconscionable bargains. These debts are still more unaffected by the Debt Conciliation Act, for, in the case of patta at any rate, if not in the case of other possessory mortgages, the penalty of discharge under section 8 (2), Debt Conciliation Act, does not apply at all. These cases are therefore harder to settle than ordinary mortgages of foreclosure or sale. From their very nature they deserve a better treatment in the board and a greater relief than can be expected in cases of other mortgages or unsecured claims. These cases were settled only as a result of appeal to the religious and moral sentiments of the sowkars. A timely tickling of their sense of vanity was also found at times, to be useful. Thus out of 2,735 mortgage claims amounting to Rs. 40,19,647-5-7, which came before the board, as many as 438 claims amounting to Rs. 3,23,350-1-6 related to possessory mortgages and long term "pattas". Of these we succeeded in settling 337 claims amounting to Rs. 2,58,112-3-0 for Rs. 1,04,280-0-0, 42 cases being settled purely by sale of a portion of debtor's property, 27 cases by cultivation of the "patta" land for less than half or one-third of the unexpired period of the "patta" land or for a nominal number of years in cases of other possessory mortgages, and 268 cases being settled purely by small instalments. Thus 337 total possessory mortgages were settled. 101 possessory mortgages amounting to Rs. 65,207-14-6 went unconciliated on account of creditor's refusal or debtor's absence.

(c) The following cases will illustrate above statement:—

(1) *Revenue Case No. 2685 of 1933-34 disposed of on the 30th March 1936 in Gadarwara board.*—In this case the malguzars of Hirapur paying Rs. 1,525 as land revenue were out of possession of their 0-16-0 mauza, Hirapur, since 1916 in lieu of interest for Rs. 20,000 secured by the possessory mortgage. They had no means to pay this heavy debt now. *Settled*: by sale of 4 annas mauza to the sowkar and saved the 12 annas mauza for the debtors as free from mortgage.

(2) *Revenue Case No. 1246 of 1933-34 decided on the 27th March 1935 in Gadarwara board.*—In this case the debtor was out of possession of his 23 acres land in lieu of interest for old account Rs. 1,000 under a possessory mortgage dated the 2nd June 1900. *Settled* for Rs. 500 worth of 8 acres land, and saved 15 acres for the debtor free from debt.

(3) *Revenue Case No. 197 of 1933-34 decided on the 30th July 1935 in Gadarwara board.*—In this case the debtors' ancestors mortgaged their 94.27 acres malik-makbuza and absolute-occupancy land, rental Rs. 200, for Rs. 15,000 to be paid in 100 years at Rs. 150 per year, about 26 years ago. The debtors repaid Rs. 3,896-10-0 in this interval and the claim amounts to Rs. 11,103-6-0 on the 25th July 1896, they put one Khetsingh, etc., in possession of their 20.82 acres absolute-occupancy, rental Rs. 85, in lieu of interest of Rs. 3,300 found due on old two mortgages, with the condition to repay in 40 years. The claim on these two mortgages of Rs. 3,300 and Rs. 11,103-6-0 totals Rs. 14,403-6-0. This is settled for Rs. 5,900, *i.e.*, Rs. 2,000 by sale of 20.82 acres; rental Rs. 85, and Rs. 3,900 in 20 years at Rs. 195 per year by these tenants paying Rs. 300 as rental and deriving a fair income from their money-lending business.

(4) *Revenue Case No. 1183 of 1934-35, dated the 5th November 1935.*—In this case the debtors' 14.92 acres of absolute-occupancy land, rental Rs. 20 now Rs. 29-8-0, has been in possession of the creditor for 19 years under a 24 years' "patta" to satisfy Rs. 984. The unexpired 5 years are worth Rs. 205 in terms of the patta: *Settled* for Rs. 20 or Rs. 25 worth lease of only one year. Thus 4 years curtailed in the patta period.

(5) *Revenue Case No. 604 of 1934-35 decided on the 5th November 1935.*—In this case the debtors' absolute-occupancy land, rental Rs. 42-8-0, was mortgaged for Rs. 1,025: *Settled* for Rs. 400 by sale of only 3.43 acres cost of sale and nazarana on creditor.

(6) *Revenue Case No. 1177 of 1934-35 decided on the 5th November 1935.*—In this case the debtors' entire absolute-occupancy land, 17.81 acres, rental Rs. 56, was held in lieu of interest of Rs. 1,600 cash advanced to the debtor since 1930: *Settled* for Rs. 1,000 by sale of 10 acres only, to save 7.81 acres free from the debt and possession is recovered, cost of sale and nazarana on creditor. The debtors' other property (patti) paying Rs. 118-12-0 as land revenue is mortgaged to another creditor for a claim of Rs. 722-13-0. *Settled* for Rs. 496 payable in 18 years by instalments of Rs. 62 to be paid by the pattidar paying Rs. 118-12-0 as land revenue beside some rent on his saved absolute-occupancy lands.

(7) *Revenue Case No. 302 of 1934-35 decided on the 30th July 1935.*—In this case the debtors' grandfather mortgaged his 35.97 acres absolute-occupancy land, rental Rs. 41, to the sole creditors' ancestor full 50 years ago and put him in possession in lieu of interest for Rs. 500 secured by the document, with condition of repayment at any time: *Settled* for Rs. 150, *i.e.*, Rs. 15 per year by this tenant of Rs. 41 rental, possession regained for the debtor. Besides this the debtor's other debts amounting to Rs. 305: *Settled* for Rs. 100, *i.e.*, Rs. 10 for 10 years, thus fixing Rs. 25 as annual instalment in the case of this absolute-occupancy tenant of Rs. 41.

(8) *Revenue Cases Nos. 2584 of 1933-34, 1024 of 1933-34, 338 of 1933-34 and 1301 of 1934-35 disposed of by Gadarwara board as arising from Mahesur village.*—In these cases started by the four branches of a deceased debtor, the ancestral land has been held by the creditor under a patta of 70 years for payment of Rs. 2,225-14-0 found due on old account except for Rs. 119 paid at the time of the last document (patta). The creditor has been in possession of the patta land for the last 30 years and claims to continue possession for the next 40 years: *Settled* for possession of next 10 years and saved the remaining 30 years of the patta for the debtor's benefit.

The above-mentioned instances will show what the debt conciliation board has done for the debtor. It should be remembered that these are not a few selected cases of the type. They simply represent the nature of conciliation done by these boards. A perusal of any agreement made in these boards, in the light of the details of each document is requested.

21. Sole creditors.—This set of creditors like the secured creditors also presented a strong front. The issue of a certificate and its consequent disallowance of costs in the civil suit being too feeble to make him agree in the board. Our success here too was very satisfactory when we settled their cases as shown below:—

Out of the 5,317 cases disposed of by these boards as many as 976 cases involving an amount of Rs. 7,79,253-12-9 related to sole creditors including sole secured creditors. Of these, 631 cases involving an amount of Rs. 4,60,373-0-8½ were *settled* for Rs. 1,97,174-0-0, 62 cases being settled by sale, 4 by lease, 2 by sale and instalments, and 563 being settled by instalments alone thus 631 cases of sole creditors were settled, 345 being unconciliated on account of creditors' refusal or debtors' absence, etc. The percentage of conciliation in these cases and the percentage of remission secured has been maintained as before.

To go a step further, in settlements of harder cases to conciliate: out of 631 settled cases of sole creditors involving Rs. 4,60,373-3-8¼, 228 cases involving an amount of Rs. 2,81,277-14-4½, related to sole secured creditors. Of these, 55 cases were settled purely by sale, 3 by cultivation, 2 by transfer and instalments and 198 were settled by instalments. Thus 258 cases of sole secured-creditors were settled. The settlement of these cases also retains the old percentage obtained in other cases.

22. **Instalments.**—(*a*) Instalments were fixed with due regard to the debtor's low-paying capacity. The difficulty of having to pay over a continued number of years was not ignored. At the same time, an unduly large number of years was not fixed for payment of instalments. Instalments were therefore fixed for that period only which was just necessary to clear off the amount of debt as curtailed in the board. The following table will show the number of cases and the instalments fixed in each case:—

No. of kists fixed	No. of cases
1	175
2	20
3	72
4	95
5	327
6	202
7	158
8	280
9	42
10	697
11	25
12	1,250
13	35
14	23
15	308
16	30
17	4
18	10
19	1
20	103
21	0
22	0
23	1
24	0
25	7
26	0
27	0
28	1
Total	3,866

NOTE.—The cases of one kist in the above table include cases settled by purely sale or lease of a portion of the debtor's land.

(*b*) Instalments have been made to fall due on the 1st June of every year in the case of rabi-growing cultivators, with rare cases of kharif-growing agriculturists in whose case 15th February has been fixed for payment. It will be convenient to mention

here the number of each year's kists and their amounts for future reference. These may be tabled as follows:—

Year	No. of kists	Amount Rs.	a.	p.
1935	767	16,803	8	0
1936	5,320	1,07,874	12	0
1937	8,751	2,02,898	12	0
1938	8,540	1,97,539	4	0
1939	8,302	1,90,498	12	0
1940	7,537	1,76,215	12	0
1941	7,053	1,60,199	4	0
1942	6,720	1,52,840	4	0
1943	5,996	1,37,897	4	0
1944	5,931	1,36,592	4	0
1945	4,437	1,00,049	4	0
1946	4,409	99,472	12	0
1947	1,280	39,107	8	0
1948	1,223	37,581	8	0
1949	1,201	37,136	0	0
1950	430	16,406	0	0
1951	396	15,446	0	0
1952	382	15,164	0	0
1953	373	14,884	0	0
1954	366	14,640	0	0
1955	67	900	0	0
1956	15	206	8	0
1957	15	206	8	0
1958	15	206	8	0
1959	10	110	8	0
1960	9	80	0	0
1961	1	30	0	0
1962	1	30	0	0
	Total	18,71,007	12	0

(*c*) *Recovery of overdue instalments.*—The above table will show that 767 kists amounting to Rs. 16,803-8-0 were made to fall due on the 1st June 1935. The number of petitions for recovery of these was very small. The absence of many petitions under section 13, Debt Conciliation Act, for recovery of the kists of that year may be explained by the fact that that was the first year of instalments and that it includes settlements by transfer. Let us therefore leave that year and go to 1936. The instalments payable on the 1st June 1936 number 5,320 and the amounts covered by these kists comes to Rs. 1,07,874-12-0. The reports received from the two tahsils comprised in the sub-division show that 806 petitions covering an amount of Rs. 23,026 have been made under section 13, Debt Conciliation Act. Thus only 15 per cent kists have been sought to be recovered which is by no means unsatisfactory specially when late showers of rain had spoiled the crop from which those instalments were settled to be paid. Again, a

comparison of the amount covered by these petitions, with the amount covered by the total number of kists fixed for the 1st June 1936 shows that 21 per cent of the amount of instalments fixed was sought to be recovered. It will thus be seen that 79 per cent amount of the instalments was paid off voluntarily. Then again, the reports of the Tahsildars on the point of recovery or otherwise of the sums sought to be collected under section 13, Debt Conciliation Act, disclose that out of Rs. 23,026 sought to be recovered Rs. 8,429 have been recovered without recourse to coercive process, Rs. 1,600 dismissed in default as paid at home and that Rs. 12,997 is in process of recovery except for Rs. 75 certified to be irrecoverable under section 13 (3), Debt Conciliation Act, in 7 cases carrying low instalments of respectively Rs. 4, Rs. 15, Rs. 3, Rs. 25, Rs. 20 and Rs. 8. It is simply to be imagined what lower kists could be fixed than Rs. 3 or Rs. 4 or Rs. 20 as shown in the preceding lines. It is hoped that a major portion of the amount which is yet in process of recovery will be paid off without recourse to sale of the debtor's property. For, cases are not few where a debtor makes wilful default in the hope that the 90 days' limitation prescribed for recovery may expire, or that the postponement clause inserted in the agreement may become operative, or that new laws may wipe off even that much liability, or that he shall pay the amount only at the time of sale of his property. Now even assuming that the instalments amount of Rs. 12,997 is shown as irrecoverable still the percentage of payment made voluntarily in that year's instalments cannot show an unsatisfactory state of affairs, specially when the ground of annual harvest on which these instalments have been based, is itself so slippery. It is but natural that about one-fourth the amount of each year's kist may not be paid at all for one reason or the other. Their non-payment will not necessarily show the fixation of a heavier instalment. It should not be forgotten that the amount which has to be spread over these instalments represents the minimum figure of creditors' dues which is acceptable to the creditor, and that the creditors also have got a family to be supported. Further figures are not available to show how much more has been recovered in this space of one month or so. Thus the proportion of the payment of the amount of kists fixed is also satisfactory.

(*d*) *Advantage of instalments.*—The instalments fixed as payable to all the creditors of the debtor, in one year, represent only one time the assessment of rent and revenue on the debtor's land. In a majority of cases this standard has been relaxed in favour of the debtor in proportion to the increase in his rents and revenues. The few cases cited above as illustrating the nature of our conciliation will show that this standard of annual instalments has not been disregarded against the interest of the debtor. Instalments may be paid or may not be paid but this cannot be denied that the fixation of an instalment in our boards *has meant* the wiping off of the curtailed amount of debt for which a bigger claim is said to have been settled in the board. The following case will illustrate this position :—

Revenue Case No. 280 of 1935-36 disposed of by the Narsinghpur board on the 12th December 1936.—We take only one

sure item of a decree carrying Re. 0-8-0 per cent per mensem, to avoid a suspicion of an improper calculation or an illegal claim. Besides it is one of the worst cases of conciliation from the debtor's point of view where practically no remission has been secured.

In this case the debtors are the sons of a respectable Rais malguzar paying Rs. 5,168-2-0 as land revenue every year. Their property is worth a lakh in these days, if not more. Their total indebtedness amounts to Rs. 72,238-8-3. Out of these debts, one Ajudhi Bai alone holds a decree for Rs. 31,707 in execution of which she has attached sufficient property of these debtors. This decree carries Re. 0-8-0 interest as stated above. This decree of Rs. 31,707 is in the debtor's interest, settled for Rs. 24,000, *i.e.*, Rs. 9,000 cash and Rs. 15,000 in 20 years at Rs. 750 per year. Now allowing the payment of Rs. 9,000 to go to the decree, the balance of the decree is Rs. 22,000 with Re. 0-8-0 per cent as usual. The annual instalment now fixed does away with this amount of Rs. 22,000 and its Re. 0-8-0 per cent per mensem altogether if only Rs. 750 are paid off for 20 years this Rs. 750 per year being only Re. 0-4-3 per cent per mensem, a poor rate of interest on the balance of the decretal debt. What should be the advantage of securing instalments in our board, to a debtor where large deductions have been made from the creditor's claim and the curtailed amount is spread over a number of years for recovery by instalments, can only be imagined. Space is wanting to show various cases of actual advances made by creditors where settlement by instalment has actually done away with the capital and caused the debtor to pay only a nominal rate of interest every year. It is hoped that at least 50 per cent of the debtors who have secured instalments in our boards will avail themselves of this advantage and thank the Government for the infinite good done to them through debt conciliation boards.

23. To recapitulate.—A total indebtedness amounting to Rs. 96,32,701-4-8 came up before these boards. Of this, indebtedness amounting to Rs. 57,63,370-2-$\frac{1}{2}$ was conciliated in 3,866 cases. Rs. 2,41,453-7-2$\frac{1}{2}$ was not conciliated as dismissed under section 7 (1) in 156 cases either because the debtor was not an agriculturist or was not entitled to the protection of these boards, etc., Rs. 30,00,171-2-8 went unconciliated in 24 cases as it later on transpired that these cases did not come within our protection. Rs. 1,12,290-1-9 was not conciliated in 5 cases as withdrawn with a view to filing new petitions after the pecuniary limit of jurisdiction was raised to Rs. 75,000. Rs. 5,01,303-0-9 went unconciliated in 20 cases on account of debtor's unreasonableness. Rs. 8,15,253-0-5 went unconciliated in 363 cases on account of creditor's unreasonableness. Rs. 2,50,026-4-2 went unconciliated in 121 cases on account of heavy arrears of rent and revenue. Rs. 6,02,089-10-11 could not be settled in 377 cases on account of debtor's or creditor's absence as settled out of the board. Rs. 38,128-1-6 was not settled in 65 cases as property lost by foreclosure or by ejectment. Rs. 1,28,506-5-0 went unconciliated in 57 cases as no jurisdiction. Rs. 24,072-5-2 could not be settled in 31 cases as debt discharged and none to settle with.

Rs. 77,976-7-11 not settled in 48 cases as paying capacity too small or very good. Rs. 7,78,334-2-9 went unconciliated in 3,866 cases on out-going creditor's account, in settled cases.

24. Results of conciliation.—(*a*) Thus our boards came to a close. In view of the voluntary nature of the debt conciliation work the results shown above are far from being unsatisfactory. If the Debt Conciliation Act is slightly amended so as to extend the penalty of postponement under section 15 to even the secured creditors, the corpus of mortgaged property being left intact for that creditor, until the agreement has either run out or ceased to subsist, and if the Debt Conciliation Act is so amended as to empower the boards to pass final orders in cases of debts where repayments made amount to five times the principal or upwards, irrespective of the period or repayments, then the Act will be rendered more useful. In suitable cases of bad debts where the creditors refuse to practically wipe off their debts only with a view to harrass the insolvent debtor, the board should be empowered to put the debtor to elect whether he wants to be declared insolvent and on his replying in the affrmative the board should be competent to pass an order declaring the debtor to be an insolvent and then send the debt conciliation petition to the insolvency court having jurisdiction to take insolvency proceedings after the stage of the adjudication order. This amendment of the Debt Conciliation Act will enable the board to fix still smaller instalments *with the consent* of the creditors.

(*b*) The debt conciliation operations are now over but the benefits accruing thereto are yet to begin. The debtors' debts having been settled on terms most favourable to them as pointed out in the foregoing paragraphs it is for the debtors now to take full advantage of the scheme chalked out for them. They should try to pay off these instalments and save their property from sale. The Government are doing all that lies in their power for the good of the villagers. It will do a useful turn if the boy scouts and the village uplift workers during their visits to these country folk, as well try and teach them how to be thrifty and how to make their two ends meet.

VII.—General

25. Income and expenditure.—This information may be useful for future reference. The following items constitute the income derived from these boards:—

	Rs.
(i) Court-fee stamps on 6,000 petitions of debtors and creditors.	3,000
(ii) Process fees at Rs. 5 on 5 average creditors in 6,000 cases besides some more cases not registered.	30,000
(iii) Registration fees on agreements ..	16,000
(iv) Non-judicial stamps in 4,000 agreements ..	2,000
(v) Non-judicial stamps for sale-deeds and registration fees, court-fees on affidavits, miscellaneous petitions, copying fees, etc.	2,000
Total ..	53,000

The following items constitute the expenditure incurred on these boards :—

		Rs.
(i)	Chairman's pay and travelling allowances ..	21,456
(ii)	Clerks' and peons' pay and travelling allowance bills.	3,044
(iii)	Pay of additional registration clerks ..	1,500
(iv)	Additional process-servers' pay ..	700
(v)	Stationery and forms and miscellaneous including charges of Government Press forms.	1,000
	Total ..	27,700

26. **Conclusion.**—I cannot close without thanking the members of my board for the valuable services they rendered to the agricultural classes at a heavy cost of their precious time and personal inconvenience in attending these boards from long distances. The public spirit and charitable disposition shown by Messrs. Radheraman Khazanchi and Mahajan Raghubir Prasad in not only very regularly attending the sittings of these boards *throughout* but in accommodating their assamis in all possible manner, were simply admirable. Rai Sahib Laxminarayan Mushran, Mohammad Yakub Khan and Modi Sheo Prasad were very useful in forming the necessary quorum even at short notices. Rai Sahib L. N. Mushran, Khazanchi Radherayan and Mr. Raghubir Prasad acted as chairmen during my absence on leave for short periods and very ably conducted the proceedings of the board. They deserve being encouraged in their public activities. I cannot here omit to mention one Seth Hansh Raj Oswal of Station Ganj, Narsinghpur, an unnotified member of the Narsinghpur board, who took a keen interest in the relief of the indebted peasantry and not for any personal gains almost daily attended the board to request a refusing creditor to have mercy on the poor debtor. His conduct was laudable. The two Sub-Registrars, Mr. K. G. Subnavis and Mr. Mohd. Hanif Jafri also helped the board operations by registering their agreements promptly. They had at times to work hard even at odd hours to keep pace with the growing number of our agreements. The process-serving staff of the two tahsils did useful work in returning effective service of creditor's notices. Their work is appreciated.

S. E. BAKSHA,
Chairman,
Debt Conciliation Boards,
Narsinghpur-Gadarwara.

GADARWARA :
The 15th January 1937.

Enclosures—
(i) Statement Form V
(ii) Form of statement

Submitted to the Revenue Secretary, Central Provinces Government, Nagpur, through the Deputy Commissioner, Hoshangabad, and the Commissioner, Jubbulpore Division, Jubbulpore.

S. E. BAKSHA,
Chairman,
Debt Conciliation Boards,
Narsinghpur-Gadarwara.

GADARWARA :
The 15th January 1937.

FORM OF STATEMENT OF CREDITOR'S ACCOUNT

(UNDER SECTION 8 (i), DEBT CONCILIATION ACT)

NOTE.—This form with its schedule has been referred to in paragraph 17 (*b*) of the Final Report.

In the Debt Conciliation Board, Narsinghpur

Revenue Case No. 82 of 1933-34 fixed for the 30th July 1935.

Behari Lal (Debtor)

versus

Ram Prasad of Bhorjhir (Creditor)

Written statement of creditor Ram Prasad—

The creditor Ram Prasad owes Rs. 336-6-0 on a mortgage and a decree as per details of the schedule of account herewith attached.

Signed (Creditor).

Enclosures—
(1) Certified copy of mortgage-deed with original for verification—1.
(2) Certified copy of decree—1.

Verification.—I, Ram Prasad, do hereby verify that the contents of the written statement and schedule are true to my personal knowledge. I verify this statement today at Narsinghpur on the 12th April 1935.

Signed (Creditor).

Statement of account in Revenue case No. 82 of 1933-34, fixed for 30th July 1935 in Debt Concilation Board, Narsinghpur.

Date and nature of original transaction	Nature of renewed document with date	Old balance	Cash advanced	Total of old balance and present advance	Amount of interest	Months	Total	Repayments	Balance after repayment	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
		Rs.	Rs. a.	Rs. a.	Rs.		Rs. a.	Rs. a.	Rs. a.	
Bond dated the 15th November 1929.	..	..	150 0	150 0	*72	48	222 0	150 0	72 0	Carried forward to column No. 3.
	Bond, dated the 16th November 1933.	72	28 0	100 0	*12	12	112 0	..	112 0	
	Mortgage, dated the 18th November 1934.	112	88 0	200 0	*24	12	224 0	24	200 0	Claim A.
Sar khat, dated the 16th December 1931.	..	..	100 0	100 0	*24	24	124 0	..	124 0	File a suit.
	Civil suit, dated the 18th December 1933.	124	12 6 cost of suit	136 6	..	..	136 6	..	136 6	Claim B—Under a decree, dated the 3rd April 1934.
	Total ..	..	378 6	..	132	..	510 6	174	336 6	Total claims A and B.

*Rate of interest—Re. 1 per cent per month.

Dated the 10*th May* 1935.

RAMPRASAD,
(of Bhorjhir),
Creditor.

Return of the Debt Conciliation Board, Narsinghpur-Gadarwara, in the Hoshangabad district, from 3rd April 1934 to 31st December 1936.

[Rule 33 of the C. P. Debt Concilation Rules, 1933.]

Cases pending at the beginning of the month		Cases registered during the month		Cases disposed of during the month									
				Dismissed under section 7 (1)		Agreements executed under section 12 (1)							
Number	Amount involved	Number	Amount involved	Number	Amount involved	Number	Amouunt		Amount due to those who agree		Amount in agreement		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)		(9)		(10)		
	Rs. a p.		Rs. a. p.		Rs. a. p.		Rs. a. p.		Rs. a. p.		Rs. a. p.		
Nil.	*Nil.*	5,317	96,32,701 4 8	156	2,41,453 7 2½	3,866	65,41,704	4 9½	57,63,370	2 ½	25,22,166	14	0

Cases disposed of during the month				Cases pending at close of the month		Cases in which agreement has ceased to subsist under Section 13 (2)			Number of certificates issued under section 15 (1)			Number of days on which the board sat during the month
Cases dismissed under section 14							Amount in agreement					
Number	Amount			Number	Amount	Number	Original	As compounded	Number of cases	Number of certificates	Amount due to creditor against whom certificate is granted	
(11)	(12)			(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)
	Rs. a. p.				Rs.		Rs.	Rs.			Rs. a. p.	
1,265	28,49,543	8	8	*Nil*	*Nil*	..	..	..	963	1,304	9,43,307 12 10	1,003 days— Less 138 Sundays. „ 95 holidays „ 7 casual leave day. „ 80 quorum days. „ 10 no work-days. „ 13 days were spent in seeing the Seoni Board. 715 days.

GPN—448-L—RS—24-6-37—40.

REPORT

ON THE WORKING OF THE

MEHKAR DEBT CONCILIATION BOARD

IN THE

BULDANA DISTRICT

NAGPUR
GOVERNMENT PRINTING, C. P. & BERAR
1937

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(9)

REVIEW ON THE WORKING OF THE MEHKAR DEBT CONCILIATION BOARD IN THE BULDANA DISTRICT

Nagpur, the 15th April 1937.

No. 1404-3422 of 36-XII.—A debt conciliation board was established on the 11th June 1934 for the Mehkar taluq of the Buldana district with Mr. M. K. Kher, Extra-Assistant Commissioner, as chairman, and five non-official gentlemen as members. Four more members were added on the 26th July 1934 in view of the increasing volume of work. The conciliation work of the board concluded on the 1st July 1936 though it continued till the end of October 1936 to dispose of certain review applications. During the period of just over two years that the board was in existence, 3,457 applications involving debt amounting to Rs. 53.04 lakhs were received. Of these, 739 applications involving debts amounting to Rs. 13.38 lakhs were dismissed under section 7 (1) of the Debt Conciliation Act and 77 applications for conciliation of debts of Rs. .78 lakh were dismissed under section 14 as no settlement could be arrived at with the creditors. Agreements under section 12 (1) were executed in 2,641 cases for debts aggregating Rs. 38.20 lakhs. These were conciliated for a sum of Rs. 26.56 lakhs resulting in a remission of Rs. 11.64 lakhs or 30 per cent of the demand. Certificates under section 15 (1) declaring that the creditors had unreasonably refused amicable settlement were issued in 142 cases for debts amounting to Rs. 1.24 lakhs.

2. The chairman has stated in his report that there was no opposition to the working of the board from any section of the public and even secured creditors were generally amenable to reasonable settlements. Debtors were delighted at the appointment of the board and applications were received from 290 out of 312 inhabited villages. The classification of the total debt brought before the board is reported to be approximately as follows:—

43 per cent secured by mortgages.
19 per cent decretal debt.
5 per cent due to co-operative societies.
33 per cent other unsecured debt.

3. The chairman calculates that after conciliation the pressure of debt per acre has been reduced from Rs. 59 to Rs. 31 and from Rs. 78 to Rs. 39 per rupee of land revenue. Of the total number of cases conciliated, 1,994 were settled by fixing instalments, 277 by transfer of land and 370 partly by transfer of land and partly by instalments. Care was taken to fix instalments within the paying capacity of the debtors and multiple of assessment adopted as a standard in fixing instalment was usually 3.5 times the land revenue though in a few cases instalments were fixed above this limit. There is every reason to hope that given

normal years the instalment fixed will be repaid punctually. Even during the year 1935-36 which was below normal only 12 per cent of the instalments were recovered by coercive processes. No interest has been allowed on instalments except in the case of debt to co-operative societies. The settlement of debt by transfer of land is reported to have proved most satisfactory as it leaves the debtor with a clean slate. Land was transferred generally at the rate of Rs. 100 per acre.

4. Most of the debtors who came to the board had already exhausted their credit and the operations of the board have not in consequence resulted in any appreciable restriction of agricultural credit. The chairman did not attempt any elaborate analysis of the proportion of debt incurred for cultivation and non-productive purposes, respectively, but gave it as his opinion that the debt was incurred very largely for non-productive purposes.

5. The Governor is pleased to record his appreciation of the excellent work done by Mr. Kher who displayed considerable tact, zeal and patience in the discharge of his arduous task; he also takes this opportunity of acknowledging publicly the valuable service rendered by the non-official members of the board. Special mention should be made of Mr. V. K. Soman, Rao Sahib Ganpat Hiruji atil and Mr. Kadtoo Yadao Patil for their contribution to the success of the operations.

By order of the Governor,
Central Provinces & Berar.

C. J. W. LILLIE,
Secy. to Govt., C. P. & Berar,
Revenue Department.

OFFICE OF THE DEPUTY COMMISSIONER, BULDANA

No. 394-A-IV, dated Buldana, the 28th August 1936.

FINAL REPORT ON THE WORKING OF THE DEBT CONCILIATION BOARD, MEHKAR

Forwarded to the Commissioner, Berar division, Amraoti Camp. The debt conciliation board, Mehkar, was established on the 11th June 1934 with Mr. M. K. Kher as Chairman and five representatives of different interests as members. Three members were subsequently added to enable the board to cope with the increasing volume of work. The operations of the board were concluded on the 1st July 1936 though the board has been continued till the end of October 1936 to dispose of review applications, if any.

2. In all 3,457 applications involving debts amounting to Rs. 53.04 lakhs were received. Of these, 739 applications involving debts amounting to Rs. 13.38 lakhs were dismissed under section 7 (1) of the Debt Conciliation Act and 77 applications covering debts of nearly Rs. 78,000 were dismissed under section 14 as no settlement could be arrived at with the creditors. Agreements under section 12 (1) were executed in 2,641 cases for debts aggregating Rs. 38.20 lakhs. The latter were conciliated for a sum of Rs. 26.56 lakhs resulting in a remission of Rs. 11.64 lakhs or about 30 per cent of the demand. Certificates under section 15 (1) declaring that the creditors had unreasonably refused amicable settlement were issued in 142 cases for debts amounting to Rs. 1.24 lakhs. Out of the total of 3,457 applications as many as 3,251 were for claims below Rs. 5,000.

3. After conciliation the pressure of debt per acre has been reduced from Rs. 59 to Rs. 31 and per rupee of land revenue from Rs. 78 to Rs. 39. Classification of the total debt discloses that approximately 43 per cent was mortgage debt, 19 per cent was decretal debt and 5 per cent was co-operative debt. In view of the fact that the board had practically no control over the above 67 per cent of the debt, the results achieved must be considered as very satisfactory. 1,994 cases were settled by fixing instalments, 277 by transfer of land and 370 partly by land transfer and partly by fixing instalments. Instalments were fixed within the paying capacity of the debtors and the multiple of assessment adopted in fixing instalments was usually 4 though in a few cases instalments were fixed above this limit. The statistics given in the report about recovery of instalments through the tahsildar show that coercive processes may have to be used for recovery of only 12 per cent of the amount, even during this year which is not normal. No interest

has been allowed on the instalments except in the case of co-operative societies debts. Though settlement of cases by transfer of land is not strictly within the purview of the Act, still this mehtod is most satisfactory as it leaves the debtors with a clean slate. Land was transferred generally at the rate of Rs. 100 per acre.

4. I agree with the chairman that most of the debtors who came to the board had little or no credit left with them and that the operations of the board have not in consequence resulted in any appreciable restriction of agricultural credit. On the other hand the operations have succeeded in lifting a considerable portion of agricultural debt and in instilling new hopes in the minds of the agriculturists.

5. There was no opposition to the working of the board from any section of the public and even the creditors, including secured ones, were generally amenable to reasonable settlement. The debtors, of course, hailed with delight the appointment of the board and applications were received from 290 out of 312 inhabited villages in the taluq. The chairman has pointed out certain difficulties in working of the Act, and I agree with him that amendments to the Act appear to be necessary on the lines pointed out by him.

6. Mr. Kher has submitted a very interesting report and the success of the operations of the board was largely due to the considerable tact, zeal and patience displayed by him in the discharge of his arduous task. The non-official members also deserve thanks of Government for their unselfish sacrifice of time and labour in the interest of public work. Special commendation is due to Mr. V. K. Soman, Rao Sahib Ganpati Hiruji Patil and Mr. Kadtoo Yadao Patil for their contribution to the success of the board.

V. G. REGE,
Deputy Commissioner,
Buldana district.

OFFICE OF THE COMMISSIONER BERAR DIVISION

No. 194-W-IV, dated Amraoti Camp, the 2nd September 1936.

Forwarded to the Secretary to Government, Central Provinces, Revenue Department.

2. The salient features of the interesting report by Mr. Kher are summarized in the Deputy Commissioner's forwarding endorsement. The report adds to our existing knowledge of the nature, causes and volume of debt in the Mehkar taluq. Its utility would have been enhanced if the instalments granted had been analysed both with reference to their number and the relation they bear to the land revenue.

3. The report affords a convincing proof, if one is needed, of the soundness of the general policy underlying the Debt Conciliation Act. The operations of the board have not only reduced debt considerably but given a stimulus to private conciliation, and the feeling of dispair among debtors should now largely disappear and give way to a sense of confidence. The average instalment works out at 3.5 times the land revenue, and although it appears that in several cases they have been fixed at 5 or 6 times the land revenue, there is every reason to hope that given normal years the instalments fixed would be repaid punctually. The experience of payments made by debtors in 1935 and 1936 is, in my opinion, encouraging. Good harvests throughout the period during which the instalments are due cannot reasonably be expected, and it would be an act of wisdom on the part of debtors to pay more during good seasons so as to make up for short payments during lean years. I think revenue officers might well emphasise this point during their tours.

4. I associate myself with the Deputy Commissioner in his commendation of the work of non-official members of the board. I do not know if the question of issuing certificates to non-officials who have done good work on the board has been considered. If not, I would suggest that it should now be considered. A large number of non-officials who have taken part in the work of the board would no doubt appreciate some recognition of their services, and the grant of certificates would seem to me to be a suitable form of such recognition.

C. M. TRIVEDI,
Commissioner, Berar.

FINAL REPORT ON THE WORKING OF THE DEBT CONCILIATION BOARD, MEHKAR, FOR THE PERIOD FROM THE 11TH JUNE 1934 TO THE 31ST JULY 1936

The debt conciliation board, Mehkar, was established on the 11th June 1934 with the following personnel:—

Mr. M. K. Kher—*Chairman.*
Mr. V. K. Soman, Mehkar.
Khan Bahadur Abdul Baqui Khan, Mehkar.
Rai Sahib Ganpati Hiruji Patil, Loni-Gaoli.
Mr. Kadtu Yadao Patil, Lonar.
Mr. Vithoba Ramji Tale, Aregaon.

Subsequently the following three members were added:—

Mr. L. A. Deshmukh, Mehkar.
Mr. Yeshwantrao Kanderao, Janephal.
Mr. Seth Akhechand Motilal, Lonar.

Unfortunately Mr. Vithoba Ramji Tale died in October 1934, and in his place Seth Kanhaiyalal of Shendurjan was appointed in June 1935.

SHORT DESCRIPTION OF THE TALUQ

Mehkar taluq comprises 312 inhabited villages and has a population of 167,319.

Total area of land under cultivation is 408,957 acres and the land revenue is Rs. 3,66,636.

Assessment of the taluq has not been revised since 1899 and it is lower than in the adjoining taluqs. Total indebtedness of the Buldana district in 1929 was Rs. 3,67,11,584 (*vide* Central Provinces Banking Committee report). Mehkar being one of the five taluqs, its share may be taken as one-fifth of the amount. Thus the indebtedness of the taluq in 1929 may have been approximately Rs. 73,42,317.

Ever since 1929 the crops have not been very satisfactory and the condition of the agriculturists has been deteriorating. Indebtedness may easily have risen by about 40 to 50 per cent and it may have been in the neighbourhood of about Rs. 1,10,00,000 when this board was established in June 1934.

PROGRESS OF WORK AND RESULTS ACHIEVED

There was no need to make any efforts to get applications for conciliation. People were only waiting for the board to open.

175 applications were received in the month of June (between the 13th June to the 30th June 1934). Applications increased after August, *i.e.*, after the people got some idea about the working of the board and the relief it could give to debtors.

Applications were received up to 31st August 1935. In all 3,457 applications, involving Rs. 53,03,752, including 396 applications, involving Rs. 4,38,104 from the creditors, were received by the board. Of these 1,254 applications were for claims below Rs. 500, 1,997 for claims from Rs. 501 to Rs. 5,000, 173 from Rs. 5,001 to Rs. 15,000 and only 31 above Rs. 15,000.

Total area of land possessed by debtors who came to the board was 90,319 acres with Rs. 67,360 as land revenue. Average debt per debtor was Rs. 1,478 and the incidence of indebtedness per acre of land was Rs. 59 and 78 times per rupee of land revenue. After conciliation the pressure of debt per acre has been reduced to Rs. 31 and works out at Rs. 39 per rupee of land revenue.

CLASSIFICATION OF THE TOTAL DEBT DISCLOSED

Approximately

43 per cent was mortgage debt.
19 per cent was decretal debt.
5 per cent was co-operative debt.
33 per cent was simple debt.

100

Under the Debt Conciliation Act we have absolutely no control on the co-operative debt, practically no control over mortgaged debt and very limited control over decretal debt. A decree holder unless he comes under 40 per cent rule as laid down in sction 12 of the Act, is not much affected by a certificate under section 15 (1) of the Act.

Our task was not easy and we had to go continuously. The idea of reducing the claims and accepting repayment by easy instalments without interest was quite foreign to creditors. Much time had to be spent in explaining to the creditors, the circumstances and the plight of the agriculturists and the likely effect in case they insisted on their legal and not reasonable dues. Progress of work was therefore slow. With great difficulty we could settle one or two cases a day in the beginning. Gradually the creditors came round to our view and progress was more rapid.

In all we settled 2,641 cases involving Rs. 38,19,733 for Rs. 26,55,622.

Forty-four per cent of the debt settled, was mortgaged debt. 1,994 cases were settled by fixing instalments, 277 cases by transfer of land and 370 cases were settled partly by land transfer and partly by fixing instalments. 8,491 acres of land was transferred for Rs. 8,35,158 and agreements were executed for Rs. 18,20,469.

Yearly instalment comes to Rs. 1,65,486 and the 2,364 debtors from whom it is due have been left with 59,162 acres land with about Rs. 46,058 as land revenue. The instalment fixed by us works out at Rs. 2-7-0 per acre of land and at 3.5 times the land revenue. No instalment except those pertaining to co-operative societies carry any interest. The instalments due to co-operative societies carry an interest at 9 per cent per annum.

General remission comes to 31.1 per cent but if the co-operative debts are excluded the remission works out at 33.5 per cent.

Remission secured by the board may not appear large but considering the immunity enjoyed by secured and decretal creditors whose claims came up to two-thirds of the total claims settled, the remission cannot be said to be unsatisfactory. We are satisfied that honest debtors got all the relief they required, and in no case the cordial relations between the parties were disturbed.

Moreover of the 3,457 debtors who came up to us, as many as 1,997 were head over ears in debt and the liabilities of 1,695 persons exceeded their total assets by about 50 per cent.

Instalments were well within the paying capacity of the debtors and worked out to 5 to 6 times the land revenue. This limit was exceeded only—

(1) Where a debtor had other means of income besides agriculture.

(2) Where a debtor was unwilling to part with land and hoped to pay the instalment beyond 5 to 6 times the land revenue. In such cases we considered it advisable to allow debtors an opportunity to pay by instalments. If this was not done then their creditors would have taken possession of their entire land. Even then we fixed instalments only in cases where we had reasons to believe that the debtors will be able to pay them.

(3) Where a co-operative society was a creditor. As society's instalments carry interest at 9 per cent its instalments generally exceed the limit of 5 to 6 times the land revenue.

DISMISSED CASES

Seven hundred and thirty-nine applications involving Rs. 13,37,766 had to be dismissed under section 7 of the Debt Conciliation Act.

The amount and the number of applications dismissed appear large. We have enclosed a statement showing the details. Two hundred and seventy-eight applications involving Rs. 3,35,048 were dismissed as the debtors remained absent, 93 as applicants had no land, 11 as applicants were adjudicated insolvents, 49 as their chief creditors were societies under liquidation, and 25 due to over indebtedness.

Two hundred and eighty-three applications, involving Rs. 6,34,052 were dismissed due to obstinacy on the part of the debtors. The debtors despite all efforts remained obdurate and did not agree to any reasonable proposals. In many cases mortgage decrees (for foreclosure) had been passed and though the creditors were willing to leave from one-fourth to one-third of the mortgaged land the debtors in our opinion foolishly refused the offers. They cannot possibly pay the decretal amounts and are sure to lose the entire land.

It is rather unfortunate that out of 739 cases as many as 561 applications involving Rs. 9,69,101 had to be dismissed either for non-appearance of debtors or for their unwillingness to agree to any reasonable proposal. Under the Act we have no power to compel a debtor to agree to our proposal though it may be in his interest.

Seventy-seven cases involving Rs. 77,956 were dismissed under section 14, owing to unreasonable attitude on the part of the creditors. In all 164 certificates involving Rs. 1,24,479 were issued against creditors in 142 cases.

CREDITORS

The chief classes of creditors were Kunbis, Marwaris and Saojis. There were also a few Brahmin and Muhammadan creditors. Barring a few creditors the attitude of the majority of them was not hostile to the debt conciliation measure. Settlement of cases of some pleader and educated sowcars of the town made an impression on other creditors. The local bar did not do anything to hamper our work. On the contrary their attitude was helpful. Creditors also realized the hard times the peasantry was passing through and generally were inclined to settle their claims on reasonable terms. Their main grievance was that while the board was reducing their claims and stopping future interest, no such arrangement was made for their own debts and that their creditors would not make any allowance for this loss and would recover their sums with full interest. Some said, that while they denied luxuries and even many necessities to themselves, and saved some money and advanced it to the agriculturists in the hope of getting interest, the debtors enjoyed all luxuries and spent recklessly at their (creditors) expense and yet were none the worse for it as the Government had come to their rescue. The creditors also did not like co-operative societies claims getting preferential treatment.

The main considerations which weighed with the creditors in agreeing to our proposals were—

(1) Recovery of instalments fixed by us as arrears of land revenue and creation of charge on property till repayment of the instalments.

(2) Delay caused in recovering through execution proceedings.

(3) Granting of instalments by Civil Courts to debtors.

(4) Settlement of cases by land transfer whereby creditors got immediate possession.

(5) Recent legislation passed to protect the agriculturists.

DEBTORS

The debtors were mostly Kunbis. Out of 3,457 debtors about 3,033 were Kunbis, 202 Harijans, 186 Muhammadans, 87 Marwaris, 155 Brahmins and about 32 Saojis.

As mentioned before out of 312 inhabited villages applications were received from about 290 villages.

The main causes of indebtedness were—

(1) Passing of the Sarda Act, which led to numerous child marriages.

(2) Continued bad harvest from 1929, combined with fall in prices, and consequent accumulation of interest charges.

(3) Tendency to purchase fields under the law of pre-emption.

Generally debtors were unwilling to part with land. In settling big mortgage cases transfer of land was unavoidable but good deal of persuation was required before debtors agreed to this kind of settlement.

No creditor was willing to take inferior land of debtor leaving good land in his possession and a debtor would not agree to part with his good land.

Even then 8,491 acres land was transferred for Rs. 8,35,153. Generally land was transferred at Rs. 100 per acre. Debtors were given the option of partitioning the land and creditors were asked to pick up their share.

We wish more persons had agreed to settle their debts by land transfer as, in our opinion, those who have done so have become debt-free and if they maintain themselves without borrowing they have nothing to worry about. They are likely to be better off than those who have agreed to pay instalments. Instalments are like the sword of Damocles but the optimism of debtors in regard to payment of instalments is unshakable and blinds them to the hard realities of the life of an agriculturist. Of the 2,364 debtors who have agreed to pay instalments we think at least about 90 per cent will be able to pay their instalments provided they are not singularly unlucky and the years are normal.

Effect of the Act on Rural Credit

There are many critics of the measure whose main objection to it is based on the supposition that agriculturists would lose all their credit and would be seriously hampered in borrowing money for current needs and consequently land and cultivation will deteriorate.

We have made careful enquiries from a number of creditors and debtors on this point. We do not think that any appreciable number of those who came to the board had any credit left in their villages or round about. They had exhausted all their credit. We have reasons to believe that debtors who approached us were prepared for this contingency. We do not believe that easy credit is an unmixed blessing. Our scrutiny of the debts has convinced us that a very small proportion of the debts incurred was taken for purely agricultural purposes. So if there is a little shrinkage of credit, none should feel alarmed at it. People will be compelled to economize and save for current agricultural needs. Our considered opinion therefore is

that far from affecting agriculturists adversely the Debt Conciliation Act has given a great relief to them. Even those unfortunate whose cases coud not be conciliated got a sort of moratorium for about two years during which period they were free from all harassment at the hands of their creditors. Moreover the establishment of a board gave a great stimulus to private settlement. Creditors themselves amicably settled their claims. We have no statistics of this outside settlement but we understand quite a number of cases have thus been settled.

Whether all persons whose cases have been settled by us fixing instalments will be able to pay the instalments in future years or not, none can foretell. The board has attempted to bring their debts within their paying capacity and if they get normal harvests there is no reason why they should not be able to pay the instalments fixed. The total amount of yearly instalment is less than even 6 per cent interest payable on the *amount conciliated* and works out at about 9 per cent on the total *amount payable* under agreements by instalments. Thus where a debtor was required to pay on an average 15 per cent interest charge alone, he will now be able to repay the principal as well as interest under our instalment scheme by paying the instalments fixed which work out at 9 per cent of the total sum of Rs. 18,20,469 under agreement. The pressure of the debt has been considerably reduced and there is no fear of interest swelling up the debts. The only adverse effect on rural credit is that perhaps now creditors are not willing to advance loans without double the security and insist on a mortgage or a conditional sale-deed in every case.

Land Mortgage Bank

Only 7 applications were settled through the land mortgage bank. Despite our efforts, debtors could not take advantage of the land mortgage bank. Majority of debtors did not possess enough land to obtain loan from the bank, sufficient to repay their debts. The hope entertained that land mortgage bank will be of great help to the board in settling the cases has not been fulfilled.

Recovery of instalment

In 1935 the instalment payable was about Rs. 69,000. Tahsildar received 87 applications for recovering Rs. 2,621-8-0 and he recovered Rs. 2,423 without selling any movable or immovable property. This year's instalment was Rs. 1,49,679. Tahsildar, Mehkar, received in all 703 applications for the recovery of Rs. 28,294-6-6. Rs. 10,062-10-1 have been recovered without selling any property (movable or immovable). I consider this recovery of Rs. 10,062-10-1 as amounting to recovery without coercive process. In number of applications (received in the last fortnight of July) no processes have been issued or served so far and therefore it would not be correct to calculate the percentage of recovery by coercive process at present. Rs. 10,062-10-1 have been collected without any difficulty. Even assuming that the remaining Rs. 18,232 will be recovered by coercive processes, the percentage of this to the total amount due for payment comes to about 12 per cent.

This year's crops were not very satisfactory. Attempts were also made to get this year's instalment suspended by passing resolutions in 2 to 3 agriculturists conferences. Debtors got an impression that this year's instalment may be suspended and so they withheld payment. The number of applications appear large but the amount involved is not much. Creditors who have been given petty instalments of Rs. 2 to Rs. 10 generally do not get their amounts without filing applications for recovery. Generally our one case relates to 3 to 4 creditors and some times to 15 to 20 creditors. In case of a default each creditor applies separately and unless a record is maintained showing the number of the board case each application for recovery relates to, percentage of the number of applications received under section 13 (1) to the total number of cases in which instalments have been fixed cannot be found out. On the whole we think the payment of instalment so far, has been satisfactory.

General

We received applications for debts between Rs. 150 to Rs. 25,000. Persons who owed less than Rs. 150 or more than Rs. 25,000, could not take advantage of the Act. Apart from these there were many even within these limits who did not think it expedient to come to us, as filing an application before a debt conciliation board was considered equivalent to going to an insolvency Court. However we presume that all those who stood in need of relief came to us and we are glad to note that most of those who came to us were able to get substantial relief.

It is interesting to note that persons who were very heavily indebted and had large number of creditors were able to strike the best bargains.

In one case a debtor possessed only 4 acres of land and had about 15 to 16 creditors, including a mortgage creditor and his debts amounted to about Rs. 12,000. All the creditors agreed to divide 2.20 acres land among themselves in proportion to their amount and left 1.10 acres to the debtor.

Many big families were saved from utter ruin. To quote only one instance, we may mention the case of the heirs of one Govindappa of Janephal. They possessed about 900 acres land and their liabilities amounted to about Rs. 75,000. Three brothers separately applied to us. We made a joint settlement. They have been left with about 600 acres of the best land and have to pay an annual instalment of only Rs. 380 per year for 33 years. They had about 30 creditors and most of them had obtained decrees carrying interest till repayment.

Debtors who were known to be "Bullies" or who were influential patils or patwaris got the best terms. There were hardly any repayments in their cases and yet their creditors secured or unsecured were afraid to take their lands and accepted istalments within their (debtors) paying capacity. An honest but simple debtor rarely got such a relief in spite of his previous repayments. We came across some instances where debtors to defraud their creditors had made fraudulent transfers or executed

bogus mortgage deeds. Such cases were very difficult to settle as more often than not, the bogus creditors stood firmly by their documents.

Creditor class also was not altogether free from blame. They generally did not show full repayments and admitted them only when receipts were produced. Many creditors never issued any receipts. With the passing of the Moneylender's Act, debtor will have a more fair-deal.

BOARD MEMBERS

Out of the 8 members of the board, *viz.*, Messrs. Soman, Akhechand, Kanhaiyalal and Kadtu Patil, were creditors in number of cases. They readily agreed to conciliate their claims and often got proportionately less than other creditors. Their attitude served as an example to other creditors. There was never any difficulty of quorum. The board met 559 days excluding Sundays and other holidays.

Kadtu Patil and Akhechand spent motor hire from their pocket and attended the board at great personal inconvenience to themselves. They charged actual motor charges for two months only, and none charged anything for the rest of the period.

I was lucky in getting such selfless and influential workers as my colleagues. Without their help it would not have been possible to achieve the results mentioned. It is not desirable to make any distinction but I cannot help acknowledging the great help rendered by Mr. V. K. Soman in conducting the cases, examining accounts, and in collecting statistics for the final report. It is creditable for Khan Bahadur Abdul Baqi Khan that, despite his old age he attended the board very regularly. Rai Sahib Ganpati Hiruji Patil and Kadtu Patil rendered valuable services to the debtors. Seth Kanhaiyalal, Akhechand and Yeshwantrao also rendered whatever help they could. Mr. L. A. Deshmukh relieved me altogether of the work of receiving applications and examining applicants. The whole board worked as a team and there was never any discordant note and there was no need to exercise casting vote. As there were three members from the Mehkar town difficulty of quorum did not arise.

II.—DIFFICULTIES EXPERIENCED IN THE WORKING OF THE ACT AND AMENDMENTS THAT APPEAR TO BE NECESSARY

Under section 8 (2) a creditor whose debt has been discharged can get it revived either through a Civil Court or by filing a review application before the board. A board can revive and settle the case on the lines of the claims of other creditors, settled by it. We think Civil Courts jurisdiction to entertain such applications during the term of a board should be barred and a time-limit should be fixed for such applications.

It is not clear as to what the position of an unmentioned and consequently unnoticed creditor is. Not infrequently a debtor does not mention all his creditors. An unnoticed creditor can go to Civil Court and obtain a decree. Under the Act there is nothing to prevent him from executing his decree even if the board has fixed instalments of other creditors. This is not fair to the creditors who have agreed to accept their amount by instalments. Such unmentioned creditor should not get any advantage over those that have agreed and at the same time should not suffer for the omission on the part of their debtor. Civil Courts while passing a decree in such cases should pass an order arranging for the payment on the lines of other creditors of that debtor.

It has been held that section 12 of the Act contemplates only one agreement in respect of all creditors of a debtor. In practice, only one agreement of all creditors is not possible. Generally in a big case all creditors do not turn up together or even if all are present they all do not come to an agreement together. The practice is to execute an agreement of those who agree the same day, and to adjourn the case and to tackle the recalcitrant creditors afterwards. If the creditors who have agreed the first day are not bound down there is a danger of their resiling subsequently. A second agreement in the case of a creditor whose debt has been discharged and is subsequently revived is unavoidable. It is not possible and practicable to summon all other creditors again and obtain their signatures on a fresh agreement. If under the present law only one agreement is permissible we urge that the law be amended as it is rather difficult to avoid second and in some cases even a third agreement in the same case.

Under the present Act 40 per cent rule prescribed by section 12 is not applicable to secured creditors. A secured creditor is not much affected by a certificate under section 15 (1). A single secured creditor if he is obdurate is a great obstacle in settling a case though the other unsecured creditors owing larger amounts may be willing to conciliate their claims. Many times in order to take advantage of the willingness of other creditors and with a view to save something to debtors, larger instalments or more lands had to be given to secured creditors than ordinarily would have been given to them. We feel that for proper and smooth working of the Act, 40 per cent rule as laid down in section 12 should be made applicable to secured creditors as well. This will not affect their security in any way. They will only be prevented from recovering their amount for a certain number of years and that too if their cases happen to fall under 40 per cent rule.

Settlement by land transfer is outside the purview of the Debt Conciliation Act. The Act contemplates settlement by fixing instalments only. Our experience has been that big mortgage or decretal cases are best settled by land transfers. Creditors in such cases are unwilling to accept instalments and the debtors too are not in a position to pay adequate instalments. We have settled such cases by land transfer but much time was wasted in inducing debtors to agree and many times parties

(generally debtors) subsequently resiled from the agreement arrived at, leaving us no option but to dismiss the case under section 7. Settlement by land transfer should be recognized by the Act and some power to the boards to enforce the agreement arrived at appears necessary.

Lastly, we think that it should be made compulsory for a creditor to appear either in person or through a recognized agent before the board at all hearings. Just as, in the absence of a debtor his application is dismissed under section 7 of the Act, claim of any creditor who remains absent without any proper cause should be deemed to be discharged. A creditor after filing a statement can avoid the board. If any such creditor's presence is secured by a summons or a warrant he flatly refuses to consider any conciliation proposals.

ACKNOWLEDGMENT

I must record my appreciation of the prompt and efficient way in which the tahsil staff served the processes of the board. My clerk D. M. Satao ungrudgingly worked very hard and gave us entire satisfaction.

M. K. KHER,

Chairman,

Debt Conciliation Board.

MEHKAR :

The 9th August 1936.

STATEMENT No. I

Statement showing the work done by the Debt Conciliation Board, Mehkar, during the period from 11th June 1934 to 31st July 1936.

Number of cases registered	Amount involved	Area of land possessed by debtors	Land revenue	Incidence of indebtedness per acre of land	Incidence of indebtedness per rupee of land revenue
(1)	(2)	(3)	(4)	(5)	(6)
	Rs.	Acres.	Rs.	Rs.	Rs.
3,457	53,18,403	90,139	67,360	59* 31*	*78 39

Classification of debt Percentage				Disposal			
Mortgaged debt	Decree debt	Co-operative debt	Simple debt	Number of cases settled	Amount involved	Amount settled	Amount in agreements
(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
					Rs.	Rs.	Rs.
43 per cent.	19 per cent	5 per cent	33 per cent	2,641	38,19,733	26,55,622	18,20,469

Disposal						
Amount in sale-deeds	Area of land transferred	Amount of instalment per year	Land left with debtors	Land revenue	Instalment per acre of land	Instalment per rupee of land revenue
(15)	(16)	(17)	(18)	(19)	(20)	(21)
Rs.	Acres	Rs.	Acres	Rs.		
8,35,153	8,491	1,65,486	59,162	46,058	2·7	3.5

Number of cases dismissed.			Certificates issued under section 15 (1) of Debt Conciliation Act.			Number of days the board met
Under section 7 with amount	Under section 14 with amount	Total of columns 22 and 23	Cases	Certificates issued	Amount	
(22)	(23)	(24)	(25)	(26)	(27)	(28
					Rs.	
Cases—739 Amount Rs. 13,37,766	Cases—77 Amount Rs. 77,956	Total of cases—816 Amount Rs. 14,15,722	142	164	1,24,479	559

*Before conciliation. †After conciliation.

STATEMENT No. II

Statement showing number of cases dismissed under section 7 (i) of the Debt Conciliation Act, in the Court of the Chairman, Debt Conciliation Board, Mehkar, during the period from 11th June 1934 to 31st July 1936.

Number of cases dismissed under section 7 (1), Debt Conciliation Act.	Amount involved	Over indebtedness		Absence of debtors		Society under Liquidation (Co-operative Societies) being principal criditors		Unwillingness of debtors		No. land in possession of debtors		Insolvency		Remarks
		Number of cases	Amount	Number of cases	Amount	Number of cases	Amount	Number of cases	Amount	Number of cases	Amount	Number of cases	Amount	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)
	Rs.		Rs.		Rs.		Rs.		Rs.		Rs.		Rs.	
739	13,37,766	25	65,554	278	3,35,049	49	99,975	283	6,34,052	93	1,26,490	11	76,646	

M. K. KHER,

Chairman,
Debt Conciliation Board.

MEHKAR:
The 9th March 1936.

GPN—516—RS—16-6-37—40

REVIEW ON THE WORKING OF THE DEBT CONCILIATION BOARDS IN THE CENTRAL PROVINCES AND BERAR DURING THE YEAR ENDING THE 30TH SEPTEMBER 1937

X9(J):227(D)
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GOVERNMENT OF THE
CENTRAL PROVINCES AND BERAR

REVENUE DEPARTMENT

Nagpur, the 6th February 1939.

Review on the working of the Debt Conciliation Boards in the Central Provinces and Berar during the year ending the 30th September 1937.

1. (1) During the year under report the Debt Conciliation Boards at : (1) Ramtek, (2) Umrer, (3) Patan, (4) Sihora, (5) Narsinghpur, (6) Gadarwara, (7) Saugor, (8) Banda and (9) Yeotmal closed their operations : and new boards were established at (1) Jubbulpore, (2) Murwara, (3) Hoshangabad, (4) Harda, (5) Seoni-Malwa, (6) Arvi, (7) Dhamtari, (8) Drug, (9) Burhanpur, (10) Janjgir, (11) Akot, (12) Ellichpur, (13) Daryapur and (14) Murtizapur. The following boards, established in previous years, continued their operations during the year :—

(1) Rehli, (2) Betul, (3) Multai, (4) Bhainsdehi, (5) Wardha, (6) Hinganghat, (7) Bhandara, (8) Gondia, (9) Sakoli, (10) Chhindwara, (11) Amarwara, (12) Damoh, (13) Hatta, (14) Khandwa, (15) Sohagpur, (16) Mandla, (17) Bilaspur, (18) Mungeli, (19) Sausar, (20) Chikhli, (21) Malkapur, (22) Basim, (23) Mangrul, (24) Darwha, (25) Amraoti, (26) Chandur and (27) Akola.

(2) The total number of boards established so far in the province, including those which have closed their operations, is 69, and the whole of the province, except Brahmapuri, Sironcha, Garchiroli, Dindori, Niwas, Mahasamund and Katghora tahsils and Wun taluq has by this time been covered by Debt Conciliation Boards.

2. A consolidated summary of the work done by the boards mentioned in paragraph 1 (1) is enclosed in the form of a statement for general information. This review is confined to the working of these Boards only.

3. (1) The Debt Conciliation Boards in the Central Provinces conciliated, during the year under review, debts amounting to Rs. 242.52 lakhs for Rs. 111.97 lakhs, securing a remission of Rs. 130.55 lakhs or 54 per cent of the demand. The highest percentage of remission in some individual cases is as much as 64 per cent. In Berar, where debts are generally secured the proportion of remission was smaller than in the Central Provinces, and debts amounting to Rs. 73.12 lakhs were conciliated for Rs. 41.42 lakhs, involving a remission of Rs. 31.70 lakhs or 43 per cent of the demand.

(2) Since the Debt Conciliation Act came into force till the end of July 1938 the Debt Conciliation Boards in the Central Provinces and Berar conciliated debts amounting to Rs. 958.69 lakhs for Rs. 479.22 lakhs, securing a remission of Rs. 479.47 lakhs or 50 per cent of the demand. Conciliation proceedings therefore have reduced the weight of indebtedness by one-half.

(3) But this does not tell the whole story. In addition to formal conciliation the chairmen succeeded, during the year under review, in securing the settlement of debts amounting to Rs. 65.95 lakhs by the transfer of 41,620 acres of land, including malguzari sharers aggregating to about 13 villages and 3 houses.

(4) In 2,596 cases, involving debts amounting to Rs. 29.25 lakhs, 3,178 certificates were issued during the year under section 15 (1) of the Central Provinces Debt Conciliation Act, declaring that the creditors had unreasonably refused amicable settlements. The effect of this would be that the creditors to whom these debts are owing will not be entitled to costs in the civil suits, which they may bring for their recovery, nor to interest in excess of simple interest at 6 per cent per annum on the amounts due on the dates of the certificates.

(5) The necessity of keeping the instalments within the repaying capacity of the debtors has been steadily borne in mind by the boards. The instalments are on the average 1.45 times the rent, or revenue, though in some boards the multiple is a little more than 2. The average number of annual instalments varies from 5 to 12. Future interest has not been allowed except in case of debts due to Co-operative Societies.

4. The number of applications filed by creditors under section 13 (1) of the Act for the recovery of instalments was 7,637, the amount for recovery being Rs. 2.84 lakhs. The sum total of all the instalments that fell due during the year is not known, but it is certain that the amount involved in the applications under section 13 (1) does not exceed one-third of it, and is in all probability much less. In 607 of the applications, Rs. 42,046 were recovered without the issue of processes, while in 1,830 applications, amounting to Rs. 68,258, co-ercive processes had to be resorted to. In 39 cases, amounting to Rs. 4,454, certificates under section 13 (3) of the Act were issued by Deputy Commissioners declaring the arrears irrecoverable. Ten of these 39 cases, involving arrears amounting to Rs. 4,220, are from Narsinghpur alone. No certificate under this section was issued in Berar. There is much diversity between districts regarding repayment of the instalments. In some districts nearly all instalments are paid regularly. In others irregularity is more common. In some cases debtors are not unable to pay but do not pay unless forced to do so.

The recovery of instalments has added very considerably to the volume of work in the revenue courts. The number of these cases is likely to increase as more and more instalments fall due during the ensuing years.

5. Chairmen of Debt Conciliation Boards have reported that conciliation of debts has led to considerable shrinkage of credit, so that agriculturists experience difficulty in securing new loans. It is however reported that they have been keeping back sufficient portion of their crops to carry on the cultivation next season. For genuine agricultural purposes financial accommodation, though difficult, is reported to be not totally non-existent. For these reasons there has been no fall in the area under cultivation.

6. Four additional land mortgage banks were established during the year and such banks now exist at Mehkar, Basim, Yeotmal, Sihora, Narsinghpur, Seoni, Amraoti, Bhandara, Nagpur, Raipur, Chhindwara, Wardha and Bilaspur. In most of these areas, the Debt Conciliation Boards have completed their operations, but in some places the boards still exist. The hope that the long-term credit facilities offered by these banks would be

utilized by people in liquidating their conciliated debts or in obtaining the maximum conciliation of debts has not been realized. Debtors have not taken loans in large numbers from the land mortgage banks to pay off the instalments fixed by the Debt Conciliation Boards. The reason for this is obvious. Lately the Debt Conciliation Boards have been giving the maximum concession possible in respect of the number of instalments and exemption of the instalments from interest, thus leaving no incentive to the debtors, whose debts have been conciliated to apply for loans from land mortgage banks, which charge interest at 6½ per cent, take mortgages of the property and insist on punctual payment. On the whole therefore Debt Conciliation Boards have not had the effect very much of helping the business of the land mortgage banks. The loans advanced by the land mortgage banks till the end of the year amounted to nearly Rs. 5 lakhs. The progress of the banks is slow, but in the early stages of the movement, caution is necessary, especially in view of the sad experience of co-operative central banks in some parts of the province.

7. Government records its gratitude to the non-official members of the boards for the ungrudging way in which they have devoted themselves to their work. It also notes with appreciation the prompt and efficient manner in which the chairmen generally have conducted their proceedings.

K. B. L. SETH,
Secy. to Govt., C. P. & Berar,
Revenue Department.

No. 777-3114-XII

Nagpur, the 24th February 1939.

Copy forwarded to all Commissioners of Divisions/all Deputy Commissioners/all Chairmen, Debt Conciliation Boards in the Central Provinces and Berar, for information.

Under Secy. to Govt., C. P. & Berar,
Revenue Department.

STATEMENT

Statement showing the working of the Debt Conciliation Boards in the Central

Name of Board	Date on which the board was established	Cases pending at the beginning of the year	
		Number	Amount
(1)	(2)	(3)	(4)
Nagpur division.			Rs.
Betul-Multai-Bhainsdehi ..	15-4-35	3,796	32,54,329
Chhindwara-Amarwara ..	3-9-35	2,110	18,43,466
Seoni sub-division ..	1-5-37	..	..
Sausar ..	25-3-36	1,281	19,01,284
Arvi ..	15-10-36	..	..
Wardha-Hinganghat ..	1-5-35	3,480	70,94,723
Ramtek-Umrer ..	15-12-35	1,065	11,17,171
Total Nagpur division ..		11,732	1,52,10,973
Jubbulpore division.			
Jubbulpore-Murwara ..	15-7-37	..	..
Sohagpur ..	15-10-35	944	17,28,344
Hoshangabad-Harda-Seoni-Malwa ..	10-3-37	..	..
	15-2-37		
Narsinghpur-Gadarwara ..	3-4-34	350	7,95,533
Khandwa ..	20-11-35	5,809	72,85,479
Burhanpur ..	1-12-36	..	..
Saugor-Banda ..	20-2-35	1,601	21,26,180
Rehli ..	1-3-36	1,415	12,64,179
Damoh ..	1-10-35	2,546	26,27,238
Hatta ..	1-10-35	1,499	12,38,237
Mandla ..	15-6-36	222	4,77,398
Patan-Sihora ..	8-5-35	2,392	23,82,962
Total Jubbulpore division ..		16,778	1,99,25,550
Chhattisgarh division.			
Bhandara-Gondia and Sakoli ..	1-11-35	4,608	74,72,308
Dhamtari ..	23-10-36	..	..
Bilaspur-Mungeli ..	10-9-36	..	..
Janjgir ..	2-1-37	..	..
Drug ..	1-11-36	..	..
Balaghat ..	15-2-34	..	..
Total Chhattisgarh division ..		4,608	74,72,308
Total Central Provinces ..		33,118	4,26,08,831
Berar division.			
Amraoti ..	15-10-35	3,578	80,58,394
Chandur ..	23-12-35	2,486	35,50,453
Ellichpur ..	20-8-37	..	..
Daryapur ..	20-8-37	..	..
Chikhli ..	1-5-36	1,272	19,53,807
Malkapur ..	1-9-36	..	..
Akola ..	11-5-36	815	16,70,456
Akot ..	15-12-36	..	..
Basim ..	15-4-35	2,535	37,51,488
Mangrul ..	1-9-35	1,470	26,22,375
Murtizapur ..	25-11-36	..	..
Yeotmal ..	3-9-35	469	10,21,416
Darwha ..	1-6-36	464	8,39,620
Total Berar division ..		13,089	2,34,68,009
Total Central Provinces and Berar ..		46,207	6,60,76,840

Provinces and Berar during the year ending the 30th September 1937.

Cases registered during the year		Cases disposed of during the year 1936-37					
		Dismissed under section 7 (1)		Agreements executed under section 12 (1)			
Number	Amount	Number	Amount	Number	Amount due to those who agree	Amount in agreement	Percentage of remission
(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
	Rs.		Rs.		Rs.	Rs.	
824	6,67,596	512	4,80,662	2,275	19,35,795	8,56,992	56
1,113	6,48,728	334	2,56,514	1,450	9,96,320	4,25,174	57
11	4,02,331	..	..	..	..	..	..
1,798	18,76,272	145	1,40,966	823	10,92,902	4,49,678	59
1,697	37,00,677	15	14,581	557	8,03,328	3,11,503	61
55	12,54,814	268	5,28,876	1,077	15,97,257	7,76,152	45
1,001	18,27,787	136	2,97,626	1,658	18,34,863	9,00,589	51
6,499	1,03,78,205	1,410	17,19,225	7,840	82,60,465	37,20,088	55
..	..	..	..	..	..	..	..
714	13,12,567	111	5,32,988	732	9,99,830	4,92,858	51
3,831	54,88,924	39	91,780	309	3,38,808	1,30,775	61
11	1,75,952	..	..	224	10,88,690	5,04,903	54
904	12,45,013	591	9,72,239	3,314	37,18,208	14,12,050	62
2,101	36,39,889	110	1,86,778	613	8,75,769	3,18,278	64
..	..	1	717	1,436	19,60,750	8,99,241	54
712	7,39,470	27	48,641	700	4,71,255	2,13,321	55
..	..	..	..	1,154	8,98,314	4,42,543	51
..	..	..	..	563	3,43,030	1,69,610	51
445	4,70,970	279	4,66,083	300	2,10,301	1,30,420	33
..	..	239	3,24,020	1,505	14,91,505	8,90,385	40
8,718	1,30,72,785	1,397	26,23,246	10,850	1,23,96,460	56,04,384	55
2,471	15,89,240	288	6,61,800	2,734	20,47,146	9,69,814	53
384	10,93,944	23	29,148	178	2,81,517	1,61,478	43
814	22,00,208	69	1,47,383	231	6,03,223	3,11,694	48
1,292	20,19,340	50	..	88	1,58,170	61,610	61
320	7,07,026	32	45,785	92	1,77,711	1,59,940	10
26	7,00,848	..	..	10	3,27,498	2,07,602	37
5,307	83,10,606	462	8,84,116	3,333	35,95,265	18,72,138	48
20,524	3,17,61,596	3,269	52,26,587	22,023	2,42,52,190	1,11,96,610	54
..	..	632	22,87,283	1,496	14,17,096	9,67,014	32
..	..	267	8,53,733	793	5,18,768	3,63,832	30
230	4,41,420	..	..	..	..	..	..
113	1,67,944	..	..	..	..	..	..
1,761	19,27,395	304	4,55,755	517	3,97,443	2,15,662	46
1,539	28,56,752	130	2,65,483	173	1,59,744	90,275	44
2,092	35,85,054	81	1,26,108	761	7,53,762	3,00,973	60
1,836	30,14,901	36	1,63,455	213	2,07,998	88,577	57
..	..	518	6,24,210	950	8,73,741	5,48,373	46
..	..	263	5,07,279	546	5,44,822	3,59,941	45
999	17,07,901	158	3,31,792	276	2,68,952	1,02,784	46
..	..	88	4,07,502	333	9,52,877	4,43,385	53
1,145	26,80,752	111	3,05,845	665	12,17,112	6,61,358	46
9,715	1,63,82,119	2,588	63,28,445	6,723	73,12,315	41,42,174	43
30,239	4,81,43,715	5,857	1,15,55,032	28,746	3,15,64,505	1,52,38,784	55

Statement showing the working of the Debt Conciliation Boards in the Central

Name of Board	Cases disposed of during the year 1936-37—*contd.*									
	Agreements executed under section 12 (1)—*contd.*								Dismissed under section 14	
	Amount conciliated by transfer of land	Area of land transferred							Number	Amount
(1)	(13)	(14)							(15)	(16)
Nagpur division.		Acres		Malguzari Shares						
	Rs.			Rs.	a.	p.				Rs.
Betul-Multai-Bhainsdehi ..	54,837	5,044·24	..		..				258	4,76,037
Chhindwara-Amarwara ..	16,050	132·005	..	1	3	8¾			205	2,06,857
Seoni sub-division ..	..	..	..						..	..
Sausar ..	1,25,715	540·78	..	1	4	6			64	1,17,646
Arvi ..	1,39,267	378·73	..		..				17	32,529
Wardha-Hinganghat ..	1,07,814	570·49	..		..				370	4,90,245
Ramtek-Umrer ..	53,698	481·84	..		..				268	4,73,209
Total Nagpur division ..	4,97,381	7,148·085	..	2	8	2¾			1,182	17,96,523
Jubbulpore division.										
Jubbulpore-Murwara ..	..	..			..				..	..
Sohagpur ..	2,950	37·80	..		..				224	3,07,710
Hoshangabad-Harda-Seoni-Malwa.	70,856	353·39	..	0	6	0			16	40,830
Narsinghpur-Gadarwara ..	*Nil*		*Nil*						*Nil*	*Nil*
Khandwa ..	2,04,725	345·73	..	1	1	9			60	95,437
Burhanpur ..	95,511	180·71	..	0	6	8½			30	85,077
Saugor-Banda ..	1,30,126	274·99	..	2	2	0			174	4,43,912
Rehli ..	61,728	91·43	..	2	3	3			137	1,46,411
Damoh ..	50,000	3,690·0	..	2	7	0			475	3,06,599
Hatta ..	3,516	36·0	..		..				356	1,51,732
Mandla ..	..	..			..				60	1,02,674
Patan-Sihora ..	1,81,992	2,572·86	..		..				608	6,11,666
Total Jubbulpore division ..	8,01,404	7,582·91	..	8	10	8½			2,140	22,92,048
Chhattisgarh division.										
Bhandara-Gondia and Sakoli	14,000	59·22 A. Land.	O.	1	0	0	1 house and one kotha.		111	1,17,164
Dhamtari ..	250	One house	..		..				59	2,68,708
Bilaspur-Mungeli ..	10,665	78·08	..	0	5	4			29	1,13,684
Janjgir ..	30,926	223·0	..		..				9	1,78,111
Drug ..	4,500	16·75	..	0	2	6			38	1,18,633
Balaghat ..	34,255	Not given	..		..				16	3,39,115
Total Chhattisgarh division ..	94,596	377·05	..	1	7	10	2 houses and 1 kotha.		262	11,35,415
Total Central Provinces ..	13,93,381	15,108·045	..	12	10	8½	2 houses and 1 kotha.		3,584	52,23,986

Provinces and Berar during the year ending the 30th September 1937—contd.

Cases pending at close of the year		Number of certificates issued under section 15 (1)			Average number of instalments fixed for payment of debt	Multiple of rent or revenue taken in fixing instalments
Number	Amount	Number of cases	Number of certificates	Amount due to creditors against whom certificate is granted		
(17)	(18)	(19)	(20)	(21)	(22)	(23)
	Rs.			Rs.		
1,575	10,29,431	129	129	66,269	9	1·57
1,234	12,19,691	217	252	86,053	..	..
11	4,02,331	..	..	..	..	..
2,047	26,51,285	64	76	52,100	12	1·54
1,108	29,88,721	41	55	21,508	7	1·5
1,337	51,77,783	229	346	1,58,349	12	1·5
..	..	69	69	1,88,756	12	·94
7,312	1,34,69,242	749	927	5,73,035	10·40	1·41
..	..	..	..	..	..	..
591	13,50,310	91	93	1,20,314	12	1
3,467	50,00,964	12	13	5,663	9	1
Nil	*Nil*	74	111	3,12,735	..	..
2,657	30,90,676	233	313	1,51,722	10	1·3
1,308	23,40,163	25	25	23,058	12	1·41
..	..	98	98	1,96,035	11·5	0·58
1,263	13,09,243	24	24	23,224	11	0·48
917	14,21,647	199	235	76,404	11	0·7
580	7,73,206	83	102	20,140	11	0·7
28	1,02,242	16	21	24,323	13	0·8
..	..	160	181	1,58,733	11	0·74
10,811	1,53,88,451	1,015	1,216	11,12,351	11·15	0·87
4,241	71,87,279	151	165	53,077	9·8	1·83
124	5,19,954	36	48	1,82,884	7	1·0
485	12,27,680	32	35	95,063	..	..
1,140	18,43,400	5	7	6,083	5	1·5
158	4,11,644	22	29	1,33,935	10·5	2·15
..	..	..	6	1,17,755	..	..
6,148	1,11,89,957	246	290	5,88,797	8·75	1·37
24,271	4,00,47,650	2,010	2,433	22,74,183	10·10	1·22

Statement showing the working of the Debt Conciliation Boards in the Central

Name of Board	Cases disposed of during the year 1936-37—*concld.*							
	Agreements executed under section 12 (1)—*concld.*					Dismissed under Section 14	
	Amount conciliated by transfer of land	Area of land transferred				Number	Amount
(1)	(13)	(14)				(15)	(16)
Berar division.		Acres		Malguzari Shares			
	Rs.			Rs. a. p.			Rs.
Amraoti ..	24,24,870	9,556·0	..	..		..	..
Chandur ..	11,92,901	5,093·0	..	..		..	..
Ellichpur ..	..	..				..	..
Daryapur ..	..	..				..	..
Chikhli ..	1,77,014	1,656·21	..	..		7	5,032
Malkapur ..	69,469	532·37	..	..		1	462
Akola ..	1,20,262	1,094·30	..	..		37	85,195
Akot ..	43,220	258·6	..	..		11	13,121
Basim ..	40,106	487	..	..		26	30,524
Mangrul ..	35,890	429	..	..		8	21,927
Murtizapur ..	40,853	441	..	..		15	29,878
Yeotmal ..	5,66,390	4,132	..	..		48	1,76,558
Darwha ..	4,90,500	2,832	..	..		102	2,68,285
Total Berar division ..	52,01,475	26,511·48	..	..		255	6,30,962
Total Central Provinces and Berar.	65,94,856	41,619·525	..	12 10 8⅞ 2 houses and 1 kotha.		3,839	58,54,948

Provinces and Berar during the year ending 30th September 1937—concld.

Cases pending at close of the year		Number of certificates issued under section 15 (1)			Average number of instalments fixed for payment	Multiple of rent or revenue taken in fixing instalments
Number	Amount	Number of cases	Number of certificates	Amount due to creditors against whom certificate is granted		
(17)	(18)	(19)	(20)	(21)	(22)	(23)
	Rs.			Rs.		
1,520	18,13,890	202	248	2,23,921	11	1·2
1,400	10,67,863	91	106	78,457	11	1·2
230	4,41,420	..	..	..	..	..
113	1,67,944	..	..	..	..	..
2,207	29,79,093	..	..	..	11·8	1·79
1,235	24,09,249	..	..	..	10·0	1·3
2,028	41,97,834	36	61	68,501	9·0	1·4
1,576	26,25,891	14	17	8,265	7·0	1·9
1,080	24,89,277	34	39	12,476	12	2·15
659	17,32,716	25	27	13,093	12	2·28
550	11,16,871	28	30	11,222	..	..
..	..	112	159	1,85,577	10	1·8
734	17,83,833	44	58	48,855	11	1·9
13,332	2,28,25,881	586	745	6,50,367	10·48	1·69
37,603	6,28,73,531	2,596	3,178	29,24,550	10·29	1·45

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GOVERNMENT OF THE CENTRAL PROVINCES

13

THE
CENTRAL PROVINCES & BERAR
DEBT LEGISLATION

PUBLISHED BY AUTHORITY

NAGPUR
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1937

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PREFACE

This volume has been prepared to meet the growing demand for something which would collate the many enactments designed to combat and palliate the great problem of indebtedness in this province. Pride of place goes to the Debt Conciliation Act, which since its inclusion in the statute book has been the model for similar measures in other provinces. The last Act, *viz.*, the Protection of Debtors Act, is the only one of its kind in India.

C. R. HEMEON,
Judicial Secretary to Government,
Central Provinces.

NAGPUR :
The 15th March 1937.

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CONTENTS

		PAGE
1.	Introduction to the Central Provinces Debt Conciliation Act, 1933.	1
2.	Central Provinces Debt Conciliation Act, 1933 ..	3
3.	Rules framed under the Central Provinces Debt Conciliation Act, 1933.	15
4.	Central Provinces Debt Conciliation Act, 1933, as applied to Berar.	27
5.	Rules framed under the Debt Conciliation Act, 1933, as applied to Berar.	40
6.	Usurious Loans Act, 1918 ..	51
7.	Usurious Loans (Central Provinces Amendment) Act, 1934, and notification issued thereunder.	54
8.	Central Provinces Moneylenders Act, 1934 ..	56
9.	Rules framed under the Central Provinces Moneylenders Act, 1934.	61
10.	Central Provinces Moneylenders (Amendment) Act, 1936.	64
11.	Rules framed under the Central Provinces Moneylenders (Amendment) Act, 1936.	66
12.	Central Provinces Adjustment and Liquidation of Industrial Workers' Debt Act, 1936.	70
13.	Rules under the Central Provinces Adjustment and Liquidation of Industrial Workers' Debt Act, 1936.	84
14	Central Provinces Protection of Debtors Act, 1937 ..	86

INTRODUCTION TO THE CENTRAL PROVINCES DEBT CONCILIATION ACT

The Central Provinces Debt Conciliation Act was passed by the local legislature in January 1933, and came into force on the 1st April 1933. It was applied to Berar a year later. The basis of the Act is voluntary settlement. The Boards constituted under it have statutory existence and are invested with certain powers of the civil court. They are not invested with any powers to compel a creditor to relinquish any portion of his claim, but if a creditor refuses a fair and reasonable offer, the Act directs that he shall be deprived of his costs in subsequent proceedings as well as of interest in excess of simple interest at 6 per cent from the date of the Board's certificate to that effect. The recovery of claims of creditors who agree to conciliation also receives precedence. These two provisions may be said to be the only elements of indirect compulsion in the Act. The Boards are empowered to call upon all creditors to submit a true statement of their claims, failing which the debts due to them are deemed to have been duly discharged for all purposes. The creditors have also to produce all documents in support of their debts and the document which is not so produced becomes inadmissible in evidence against the debtor. The Act also provides that if the creditors accept a fair offer made by the Board, they need not go to the Civil Court for recovering the instalments fixed, as they are to be recovered by the Deputy Commissioner on their behalf as arrears of land revenue.

The scope of the Act is restricted to proprietors, cultivators and tenants of average status. Agriculturists whose total indebtedness does not exceed Rs. 150 generally and in particular areas to which this provision has been specially applied Rs. 50 are excluded from the purview of the Board; while those whose indebtedness exceeds Rs. 50,000 can apply to the Board only in areas where the local Government has increased this limit. Debt which can be conciliated include rental arrears and the dues of co-operative societies, but not land revenue or sums recoverable as land revenue.

The procedure outlined in the Act is a very simple one and lawyers have been deliberately prohibited from appearing before the Boards. Parties are, however, allowed to be represented by agents authorized in writing. Both debtors and creditors can apply to the Board, but the application has to mention full details of the liabilities and assets of the debtor. On receipt of an application, the applicant is examined, and if the Board is satisfied that it is desirable to effect a settlement, notices are issued to all creditors to submit an account of the debt owed to them. On the day fixed for enquiry, the claims are scrutinized, the debtor's income is determined, and efforts are then made to reduce the debts so as to bring them within the paying capacity of the debtor.

The compounded debt is spread over a certain number of years, generally 10 to 15, and instalments are fixed at amounts which the debtor can be expected to repay from his annual income, after making due allowance for the cost of his maintenance and other obligatory commitments. If the creditors to whom 40 per cent of the debts are owing agree to the proposed settlement, an agreement is signed embodying the terms and is registered forthwith under the Indian Registration Act.

If any creditor refuses to accept the Board's proposals, the Board may grant the debtor a certificate in respect of that creditor's debt, and the consequences of such a certificate have been stated already. It is also provided that a decree obtained for a debt in respect of which a certificate has been granted shall not be executed until all the amounts recorded as payable under the agreement with the other creditors have been paid or the agreement has otherwise ceased to subsist. This restriction directing postponement of decrees does not apply to secured creditors over whom the Act does not provide any effective control.

In order to remove the present hesitancy on the part of secured creditors and to facilitate the conciliation of secured debts on a larger scale, the Act has been amended so as to provide that if a secured creditor joins an agreement his existing lien or charge on the immovable property of the debtor shall subsist until the amount due to him has been paid or the property has been sold for the satisfaction of such debt. In cases in which the debts are too heavy to be liquidated from surplus annual income in a reasonable number of years, one way out of the difficulty is to satisfy a portion of the compounded debt by the transfer of a part of the property. Strictly speaking, such settlements are not within the purview of the Act, but there is no bar to the Board using its good offices to bring them about, and in practice they are made whenever possible.

THE CENTRAL PROVINCES DEBT CONCILIATION ACT, 1933 [II OF 1933] AS AMENDED BY ACTS NOS. I OF 1934, XIV AND XXVIII OF 1935, XV AND XXXIII OF 1936 AND XVI AND XVII OF 1937

TABLE OF CONTENTS

Preamble.

Sections.

1. Short title, extent and commencement.
2. Definitions.
3. Establishment of Debt Conciliation Board.
4. Application for settlement between debtor and his creditors.
5. Verification of application.
6. Particulars to be stated in application.
7. Procedure on application.
7-A. Finality of Board's jurisdiction.
8. Notice calling upon creditors to submit statement of debts.
9. Procedure on submission of statement of debts.
9-A. Verification of statement and particulars of debts.
10. Board to endeavour amicable settlement.
11. Power of Board to require attendance of persons and production of documents and to receive evidence.
12. Agreement of amicable settlement, its registration and effect.
12-A. Existing mortgage, lien or charge to subsist.
13. Recovery of sums due under agreement.
13-A. Power to deposit amount of instalment with Deputy Commissioner.
13-B. Grant of receipt for deposit and payment of deposit.
13-C. Debtor to be deemed to have fulfilled terms of agreement.
13-D. Bar of suits or other legal proceedings.
14. Power of Board to dismiss application.
15. Grant of certificate by Board in respect of certain debts and power of Courts to disallow costs or interest.
16. Bar of civil suits.
17. Avoidance of certain transfer of debtor's property.
18. Bar of appeal or revision.
19. Power of Board to review its order.
20. Appearance of party before Board by agent but not by legal practitioner.
21. Suspension of pending application or suit.
22. Submission of reports by Boards regarding sums due to Government.
23. Allowance of time for limitation.
24. Members of Board deemed to be public servants.
24-A. Proceedings deemed to be judicial proceedings.
25. Power to make rules.
26. General provisions regarding rules.

[Published in the *Central Provinces Gazette*, dated the 18th March 1933.]

CENTRAL PROVINCES ACT No. II OF 1933 AS AMENDED BY ACTS No. 1 OF 1934, Nos. XIV AND XXVIII OF 1935, Nos. XV AND XXXIII OF 1936 AND Nos. XVI AND XVII OF 1937

THE CENTRAL PROVINCES DEBT CONCILIATION ACT, 1933

An Act to make provision for the setting up of Debt Conciliation Boards to relieve agriculturists from indebtedness.

Preamble.

WHEREAS it is expedient to relieve agriculturists from indebtedness by amicable settlement between them and their creditors;

AND WHEREAS the previous sanction of the Governor General required by sub-section (3) of section 80-A of the Government of India Act has been obtained to the passing of this Act;

It is hereby enacted as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Central Provinces Debt Conciliation Act, 1933.

(2) It extends to the whole of the Central Provinces.

(3) It shall come into force on such date as the local Government may, by notification, direct.

[NOTE.—The Act came into force on the 1st April 1933 by Notification No. 957-765-XII, dated the 17th March 1933.]

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) the expressions "*malik-makbuza*", "proprietor", "*raiyat*", "*raiyat-malik*" and "village" shall have the meanings assigned to them in the Central Provinces Land Revenue Act, 1917 (II of 1917);

(*b*) the expressions "agriculture", "holding", "land", "occupancy tenant" and "absolute-occupancy tenant" shall have the meanings assigned to them in the Central Provinces Tenancy Act, 1920 (I of 1920);

(*c*) "Board" means a Debt Conciliation Board established under sub-section (1) of section 3;

(*d*) "creditor" means a person to whom a debt is owing and includes a co-operative society;

(*e*) "debt" includes all liabilities owing to a creditor, in cash or kind, secured or unsecured, payable under a decree or order of a civil court or otherwise,

whether due or not due, but shall not include arrears of wages, land revenue or anything recoverable as an arrear of land revenue, or any money for the recovery of which a suit is barred by limitation;

(*f*) "debtor" means a person who earns his livelihood mainly by agriculture and who is an occupancy tenant or absolute-occupancy tenant or *raiyat* or *raiyat-malik* or a *malik-makbuza* or a proprietor, whose debts exceed Rs. 150; *[or such lower amount, not being less than fifty rupees, as the Local Government may, by notification, prescribe for a particular area];

(*g*) "prescribed" means prescribed by rules made under this Act.

Establishment of Debt Conciliation Board.

3. (1) The Local Government may establish a Debt Conciliation Board for any district or part of a district. Such Board shall consist of a Chairman and two or more members, not exceeding nine†; including the Chairman, to be appointed by the local Government which may, for reasons to be recorded in writing, cancel any appointment and dissolve any Board.

(2) The Chairman and every member of a Board so established shall be appointed for a term not exceeding one year. Such Chairman or member may, on the expiration of the period for which he has been appointed, be again appointed ‡[from time to time] for a further term not exceeding one year

(3) A Board shall have such quorum as may be prescribed.

(4) Where the Chairman and members of a Board are unable to agree, the opinion of the majority shall prevail. Where the Board is equally divided the Chairman shall have a casting vote.

(5) $If at any time the Chairman of a Board is temporarily prevented from discharging his duties, he may nominate any member thereof to act for him during his temporary absence and such member shall, while so acting, have the same powers as the Chairman.

Application for settlement between debtor and his creditors.

4. (1) A debtor or any of his creditors may apply to the Board appointed for the area in which any holding, land or village of the debtor, or any part thereof, is situate, to effect a settlement between the debtor and his creditors:

Provided that no application shall be made if the debtor's debts exceed ¶fifty thousand rupees or such larger amount as may be prescribed for each area.

(2) No debtor or creditor shall simultaneously make more than one application, and where applications have been made by the debtor and any of his creditors, the applications made by the creditors shall be merged in the application made by the debtor.

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*Inserted by Act XVI of 1937.

†For the word "five" the word "nine" was inserted by Act I of 1934.

‡Inserted by Act XXVIII of 1935.

$Sub-section (5) to section 3 was inserted by Act XIV of 1935.

¶For the word "twenty-five" the word "fifty" was inserted by Act XVII of 1937.

Verification of application.

5. Every application to a Board shall be in writing and shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1908 (V of 1908), for signing and verifying plaints.

Particulars to be stated in applications.

6. (1) Every application presented by a debtor to a Board shall contain the following particulars, namely :—

(*a*) a statement that the debtor is unable to pay his debts;

(*b*) the place where he resides;

(*c*) the amount and particulars of all claims against him together with the names and residences of his creditors so far as they are known to, or can, by the exercise of reasonable care and deligence be ascertained by him; and

(*d*) the amount and particulars of all his property, including claims due to him, together with a specification of the value of such property not consisting of money, and the place or places at which any such property is to be found.

(2) Every application presented by a creditor shall contain the following particulars, namely :—

(*a*) the place where the debtor resides; and

(*b*) the amount and particulars of his claim against such debtor.

Procedure on application.

7. (1) On receipt of an application under section 4, the Board shall pass an order fixing a date and place for hearing the application :

Provided that the Board may at any time dismiss the application if, for reasons to be stated in writing, it does not consider it desirable to attempt to effect a settlement between the debtor and his creditors.

(2) Notice of the order under sub-section (1) shall be sent by registered post to the debtor or creditors, as the case may be.

Finality of board's jurisdiction.

*7-A. (1) If, on receipt of an application under section 4, the Board admits the application as being within its jurisdiction or, under sub-section (1) of section 7, dismisses it on the ground of want of jurisdiction, a debtor or his creditor may, within thirty days from the date of admission or of the order of dismissal, as the case may be, make an objection in writing to the Board against such admission or dismissal.

(2) On receipt of an objection under sub-section (1), the Board shall make such order thereon as it thinks fit and it shall be final.

(3) If no objection is made under sub-section (1), or if an objection is made and decided under sub-section (2), the jurisdiction of the Board shall not be questioned in any civil court.

*Section 7-A was inserted by Act XV of 1936.

Notice calling upon creditors to submit statement of debts.

8. (1) If, after examining the debtor, it is in the opinion of the Board desirable to attempt to effect a settlement between him and his creditors, a notice shall be issued and served or published in the manner prescribed, calling upon every creditor of the debtor to submit a statement of debts owed to such creditor by the debtor. *[Such statement shall be submitted to the Board in writing on or before such date as the Board may fix in this behalf not being earlier than two months from the date of service or publication of the notice, as the case may be] :

Provided that, if the Board is satisfied that any creditor was, for good and sufficient cause, unable to comply with such directions, it may extend the period for the submission of his statement of the debt owed to him.

(2) Every debt of which a statement is not submitted to the Board in compliance with the provisions of sub-section (1) shall be deemed for all purposes and all occasions to have been duly discharged :

Provided that, if a creditor proves to the satisfaction of the Board or a civil court that the notice was not served on him and that he had no knowledge of its publication †[or that he was prevented from complying with the provision of sub-section (1) on account of unforeseen or unavoidable difficulty or cause] the Board or court may revive the debt.

Procedure on submission of statement of debts.

9. (1) Every creditor submitting a statement of the debts owed to him in compliance with a notice issued under sub-section (1) of section 8 shall furnish, along with such statement, full particulars of all such debts and shall at the same time produce all documents, including entries in books of account, on which he relies to support his claims, together with a true copy of every such document :

‡Provided that if the Board is satisfied that any creditor was for good and sufficient cause, unable to produce such documents along with the statement, it shall require them to be produced on a date fixed for the purpose.

(2) The Board shall, after marking for the purpose of identification every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the creditor.

(3) If any document which is in the possession or under the control of the creditor is not produced by him as required by sub-section (1), the document shall not be admissible in evidence against the debtor in any suit brought by the creditor or by any person claiming under him.

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*Substituted by Act XIV of 1935.

†Inserted by Act XXVIII of 1935.

‡This proviso was inserted by Act XXVIII of 1935.

Verification of statement and particulars of date.

*["9-A. Every statement submitted under sub-section (1) of section 8, together with all particulars furnished along with it under sub-section (1) of section 9, shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1908 (V of 1908), for signing and verifying plaints."]

Board to endeavour amicable settlement.

10. The Board shall call upon the debtor and each creditor, respectively, to explain his case regarding each debt and shall endeavour to induce them to arrive at an amicable settlement.

Power of Board to require attendance of persons and production of documents and to receive evidence.

11. (1) Subject to the provisions of sections 132 and 133 of the Code of Civil Procedure, 1908 (V of 1908), and to rules made under section 25, a Board shall have power to summon any person whose attendance it considers necessary either to be examined as a party or to give evidence as a witness or to produce any document *["for the purpose of ascertaining the antecedents of any debt or for any other purpose in connection with an inquiry under this Act".]

(2) Any person present may be required by a Board to give evidence or to produce any document then and there in his possession or power.

Agreement of amicable settlement, its registration and effect.

12. (1) If the creditors to whom not less than forty per cent of the total amount of the debtor's debts are owing come to an amicable settlement with the debtor, such settlement shall forthwith be reduced to writing in the form of an agreement recording †[a list of immovable properties of the debtor with particulars of any mortgage, lien or charge subsisting thereon], the amounts payable to such creditors and the manner in which and the times at which they are to be paid. Such agreement shall be read out and explained to the parties concerned, and shall be signed or otherwise authenticated by the Board and the parties:

Provided that, when a co-operative society is one of such creditors, no settlement, in so far as it affects the debts owing to such society, shall be valid without the previous approval in writing of the Registrar of Co-operative Societies.

(2) An agreement thus made shall, within ‡one month from the date of its making, be registered under the Indian Registration Act, 1908 (XVI of 1908), by the Chairman of the Board in such manner as may be prescribed and it shall then take effect as if it were a decree of a civil court.

(3) For the purpose of the registration of an agreement under sub-section (2), the Chairman of the Board shall be deemed to be an officer of Government empowered to execute such agreement within the meaning of section 88 of the Indian Registration Act, 1908.

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*Section 9-A was inserted and the addition to section 11 (1) was made by Act XXXIII of 1936.

†These words were inserted by Act XV of 1936.

‡For the words "fourteen days" the words "one month" were inserted by Act XIV of 1935.

Existing mortgage, lien or charge to subsist.

*12-A. Where an agreement registered under sub-section (2) of section 12 relates to a debt which is secured by a mortgage, lien or charge on any immoveable property of a debtor, such mortgage, lien or charge shall subsist to the extent of the amount payable to the creditor in respect of such debt in accordance with the terms of the agreement until such amount has been paid or the property has been sold for the satisfaction of such debt.

Recovery of sums due under agreement.

*13. (1) If a debtor defaults in paying any amount due in accordance with the terms of an agreement registered under sub-section (2) of section 12, such amount shall be recoverable as an arrear of land revenue on the application of the creditor made within ninety days from the date of default.

(2) Where the Deputy Commissioner has, under sub-section (1), recovered any amount which was payable in accordance with the terms of the agreement, he shall proceed to make payments as follows:—

(*a*) He shall, in the first instance, apply the sum realized from the sale of any portion of the immoveable property referred to in section 12-A to the payment of any amount payable under the agreement on account of a debt which is secured by a mortgage, lien or charge on such property in order of priority determined in accordance with the provisions of the Transfer of Property Act, 1882 (IV of 1882), and, if the said sum is insufficient to meet such payments, the amounts which have remained unpaid shall rank equally with unsecured debt.

(*b*) If there is a surplus after the payments have been made under clause (*a*), the Deputy Commissioner shall apply to the payment of any other amounts payable under the agreement the sum of the surplus and of the proceeds realized from the sale of such portion of any other property of the debtor as will, together with the surplus, be sufficient to meet the payment of such amounts.

(*c*) If the sum of the surplus and sale proceeds referred to in clause (*b*) is insufficient to meet the payment of other amounts referred to therein, such other amounts and any amount payable on account of any unsecured debt for the recovery of which a decree has been passed by a civil court and of which details are given in the agreement shall rank equally between themselves for the purposes of payment.

(*d*) Any further surplus remaining after the payments have been made under clauses (*a*), (*b*) and (*c*), shall be paid by he Deputy Commissioner to the debtor.

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*Section 12-A was inserted and section 13 was substituted by Act XV of 1936.

(3) Where the Deputy Commissioner fails, under sub-section (1), to recover as an arrear of land revenue any part of the amount referred to therein, he shall certify that it is irrecoverable and thereupon the agreement shall cease to subsist.

(4) Where an agreement ceases to subsist, any amount which was payable under such agreement but has not been paid shall be recoverable as if a decree of a civil court had then been passed for its payment.

Power to deposit amount of instalment with the Deputy Commissioner.

*"13-A. (1) If a creditor refuses to accept any amount tendered to him by his debtor in accordance with the terms of an agreement registered under sub-section (2) of section 12, or if, in any case, the debtor is doubtful as to the person entitled to receive such amount, the debtor may apply to the Deputy Commissioner for permission to deposit such amount with him.

(2) An application made under sub-section (1) shall be in writing and shall contain—

(*a*) a statement of the grounds on which it has been made,

(*b*) the name of the creditor to whose credit the deposit is to be entered, and

(*c*) the name of the person to whom payment was last made and of the person now claiming it.

Grant of receipt for deposit.

13-B. (1) If it appears to the Deputy Commissioner that the applicant is entitled to make the deposit under section 13-A, he shall receive such deposit and give a reciept therefor.

Payment of deposit.

(2) The Deputy Commissioner shall cause a notice of such deposit to be served on every person who, he has reason to believe, claims or is entitled to it and may pay the amount thereof to any person appearing to him to be entitled to it, or may retain it pending the decision of a civil court as to the person entitled to it.

Debtor to be deemed to have fulfilled terms of agreement.

*13-C. A debtor who has made a deposit under section 13-B shall be held to have fulfilled the terms of the agreement.

Bar of suits and other legal proceedings.

*13-D. No suit or other legal proceeding shall be instituted against the Secretary of State in Council or any officer of Government in respcet of anything done regarding a deposit under this Act, but nothing in this section shall prevent any person entitled to recover the amount of such deposit from recovering it from any person to whom it has been paid under section 13-B."

*Sections 13-A, B, C and D were inserted by Act No. XXXIII of 1936.

Power of Board to dismiss application.

14. If no amicable settlement is arrived at under sub-section (1) of section 12, the Board shall dismiss the application.

Grant of certificate by Board in respect of certain debts.

15. (1) Where, during the hearing of any application made under section 4, any creditor refuses to agree to an amicable settlement, the Board may, if it is of opinion that the debtor has made such creditor a fair offer which the creditor ought reasonably to accept, grant the debtor a certificate, in such form as may be prescribed, in respect of the debts owed by him to such creditor.

Power of Court to disallow costs or interest.

(2) Where any creditor sues in a civil court for the recovery of a debt in respect of which a certificate has been granted under sub-section (1), the court shall, notwithstanding the provisions of any law for the time being in force, not allow the plaintiff any costs in such suit, or any interest on the debt after the date of such certificate in excess of simple interest at six per cent per annum on the amount due on the date of such certificate.

(3) Where, after the registration of an agreement under sub-section (2) of section 12, any unsecured creditor sues for the recovery of a debt, other than a debt incurred subsequent to such agreement, in respect of which a certificate has been granted under sub-section (1) or any creditor sues for the recovery of a debt incurred after the date of such registration, any decree passed in such suit shall, notwithstanding anything contained in the Code of Civil Procedure, 1908, (V of 1908), not be executed until all amounts recorded as payable under such agreement have been paid or such agreement has ceased to subsist:

*Provided that the provision in this sub-section shall not apply to the execution of a decree passed in a suit for the recovery of rent as defined in the Central Provinces Tenancy Act, 1920 (I of 1920).

Bar of civil suits.

16. No civil court shall entertain—

(*a*) any suit in respect of—

(i) any matter pending before a Board, or

(ii) the validity of any procedure or the legality of any agreement made under this Act, or

(iii) the recovery of any debt recorded as wholly or partly payable under an agreement registered under sub-section (2) of section 12 from any person who, as a debtor, was party to such agreement whether such agreement is subsisting or not, or

*The proviso was added by Act XIV of 1935.

(iv) the recovery of any debt which has been deemed to have been duly discharged under sub-section (2) of section 8, except a debt which is revived under the proviso to that sub-section;

(*b*) any application to execute a decree, the execution of which is suspended under sub-section (3) of section 15.

Avoidance of certain transfers of debtors' property.

17. Every transfer of property made, with intent to defeat or delay the creditors of the debtor, after an application has been made to a Board under section 4 and until the agreement registered in respect of such application has ceased to subsist, shall be voidable at the option of any creditor so defeated or delayed.

Bar of appeal or revision.

18. No appeal or application for revision shall lie against any order passed by a Board.

Power of Board to review its order.

19. A Board may, *[either on its own motion at any time or] on the application from any person interested made within ninety days of the passing of an order, review any order passed by it and pass such order in reference thereto as it thinks fit:

Provided that no order shall be varied or reversed unless notice has been given to the persons interested to appear and be heard in support of such order.

Appearance of party before Board by agent but not by legal practitioner.

20. In any proceedings before a Board any party may be permitted to appear by an agent authorized in writing, but not by a legal practitioner.

Suspension of pending application or suit.

†21. When an application has been made to a Board under section 4, any suit or other proceedings then pending before a civil court in respect of any debt for the settlement of which application has been made shall be suspended until the Board has disposed of the application:

Provided that no decree, whether passed before the date of such application or passed in the suit after revival for the recovery of an unsecurred debt in respect of which a certificate has been granted under sub-section (1) of section 15, shall be executed until all amounts recorded as payable under an agreement registered under sub-section (2) of section 12 have been paid or such agreement has ceased to subsist.

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* Inserted by Act No. XXXIII of 1936.

† This revised section was inserted by Act XIV of 1936.

Submission of reports by Boards regarding sums due to Government.

22. Where in the course of an inquiry into an application made under section 4 a Board finds that there is any sum owing to Government on account of loans advanced under the Agriculturists Loans Act, 1884 (XII of 1884), or the Land Improvement Loans Act, 1883 (XIX of 1883), or otherwise, the Board shall report this fact through the Deputy Commissioner to the Commissioner.

Allowance of time for limitation.

23. In calculating the period of limitation for any suit filed in, or proceeding before, a civil court for the recovery of a debt which was the subject of any proceedings under this Act the time during which such proceedings had continued shall be excluded.

Members of Board deemed to be public servants.

24. The members of a Board shall be deemed to be public servants within the meaning of the Indian Penal Code (XLV of 1860).

Proceedings deemed to be judicial proceedings.

*[24-A. All proceedings under this Act, shall be deemed to be judicial proceedings within the meaning of section 228 of the Indian Penal Code.]

Power to make rules.

25. In addition to any power specially conferred by this Act, the Local Government may make rules—

(*a*) prescribing the quorum for, and regulating the procedure before, a Board;

(*b*) prescribing the manner in which notices shall be issued and served or published under sub-section (1) of section 8;

(*c*) prescribing the charges to be made by a Board for anything done under this Act and the persons by whom and the manner in which such charges shall be paid;

(*d*) prescribing the records to be kept and the returns to be made by a Board;

(*e*) prescribing the allowances, if any, to be paid to the Chairman and members of a Board;

(*f*) regulating the power of a Board to summon parties and witnesses under section 11 and the grant of expenses to witnesses;

(*g*) prescribing the place at which and the manner in which an agreement shall be registered under sub-section (2) of section 12;

(*h*) prescribing the form of certificate to be granted under sub-section (3)† of section 13 or sub-section (1) of section 15; and

(*i*) generally, for the purpose of carrying into effect the provisions of this Act.

*Section 24-A was inserted by Act XVI of 1937.

†For the figure (2) the figure (3) was inserted by Act XV of 1936.

General provisions regarding rules.

26. (1) All rules for which provision is made in this Act shall be made by the Local Government and shall be consistent with this Act.

(2) All rules shall be subject to the condition of previous publication.

(3) In making any rule the local Government may direct that a breach thereof shall be punishable with fine which may extend to fifty rupees, and, where the breach is a continuing one, with further fine which may extend to ten rupees for every day after the first during which the breach has been persisted in.

RULES FRAMED UNDER THE CENTRAL PROVINCES DEBT CONCILIATION ACT

1. (1) These rules may be called the Central Provinces Debt Conciliation Rules, 1933.

(2) In these rules "Act" means the Central Provinces Debt Conciliation Act, 1933.

2. The quorum necessary for the transaction of business at a meeting of a Board shall be as follows:—

Quorum.

(i) In the case of a Board where the number of members is 3.	2
(ii) Where the number of members is more than 3:	3

Provided that a Board having a quorum may act notwithstanding any vacancy in the number of its members other than the Chairman.

3. The Chairman shall preside at every meeting of the Board and shall regulate the course of all business.

4. (1) The Board shall ordinarily hold its sittings at such place as may be appointed as its headquarters by the Deputy Commissioner, but may sit at any other place within its jurisdiction for the convenient disposal of its business.

(2) The Board shall hold its sittings at such times as may be fixed from time to time by the Chairman and may adjourn its proceedings for any period if such adjournment is, in its opinion, necessary for the proper conduct of the proceedings.

5. The parties shall be notified by the Chairman in such manner as he may deem necessary, of the time, and, if the place is other than the Board's ordinary headquarters, of the place at which the Board's sittings are to be held unless a special method for the service of a notice is prescribed by the Act.

6. An application under section 4 shall be made in Form No. I appended to these rules, and shall be presented at any time during court hours by the applicant in person or by an agent authorized in writing to the Chairman or any member of the Board.

†It shall be accompanied in the case of a debtor, who is a tenant, raiyat or malik-makbuza, by his rasid-bahi, and in the case of a debtor, who is a proprietor, by a certified copy of entries in the register of proprietary mutations showing the village share or shares possessed by him.

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*Notification No. 1444-411-XII, dated the 1st May 1933.

†Notification No. 528-2961-XII, dated the 3rd February 1934.

7. Any member of the Board may examine the applicant in order to verify the accuracy of the particulars contained in the application and may call for additional information to complete the application.

8. If it is decided to proceed with the application the order under sub-section (1) of section 7 shall be recorded on an order sheet in the form prescribed for revenue cases. This form shall contain a note of every interlocutory order made in the case and shall show the date and place of the proceedings at every hearing. The proceedings shall be conducted, as nearly as may be, in accordance with the rules and procedure prescribed for the disposal of revenue cases under the Central Provinces Land Revenue Act, 1917.

9. Every application shall be made into a revenue case and dealt with according to the instructions in the Central Provinces Revenue Book Circular II-1.

10. An abstract of the statement made by each witness and the statements of the parties shall be filed with the record.

11. If at any time during the course of the proceedings it appears to the Board that any creditor has filed a suit or started any other proceedings which should be suspended under section 21 of the Act, the Board shall grant a certificate in Form No. II appended to these rules over the signature of the Chairman to the debtor concerned, specifying the debts owing to any such creditor which may be under settlement.

12. All certificates granted by the Board and all notices, summonses and other processes issued by the Board shall be signed by the Chairman and shall be dated and sealed with the seal of the Board.

13. The proceedings of the Board shall be recorded in English unless the Chairman decides to record them in the vernacular of the district.

14. Every notice under sub-section (2) of section 7 of the Act shall be in Form No. III appended to these rules.

15. Every notice under sub-section (1) of section 8 of the Act shall be in Form No. IV appended to these rules.

16. A copy of the notice under sub-section (1) of section 8 shall be served on each known creditor. A copy shall also be posted on the district and tahsil office notice boards and the notice board of the Board's office. A copy shall also be posted in a conspicuous place in the village where the debtor ordinarily resides and all the villages within the area for which the Board has been appointed where any holding or land of the debtor or any part thereof is situate.

17. Every notice required to be served under the above rule may be served either by tendering or delivering a copy thereof or sending such copy by registered post to the creditor on whom it is to be served or his authorized agent, or if service in the manner aforesaid cannot be made, by affixing a copy thereof at his last known place of residence.

18. No notice shall be deemed void on account of any error in the name or designation of any person referred to therein unless such error has produced substantial injustice.

*19. Every application to the board shall be stamped with a court-fee stamp of the value of twelve annas. Further additional fees on the amount for which the debt is settled shall be charged and collected in the shape of court-fee stamps, at the rates indicated below—

(1) If the amount of the debt settled does not exceed Rs. 500—Re. 0-8-0.

(2) If the amount of the debt settled exceeds Rs. 500, but does not exceed Rs. 1,000—Re. 1.

(3) If the amount of the debt settled exceeds Rs. 1,000—Re. 1 for the first Rs. 1,000 and Re. 0-8-0 for every Rs. 500 or fraction thereof above Rs. 1,000.

No additional fees shall be recovered in cases in which the applications are rejected or no settlement is arrived at.

20. Process fees shall be paid by the applicant for the issue of notices and summonses in accordance with the scales prescribed from time to time in the rules on the subject made under the Central Provinces Land Revenue Act, 1917, and shall be paid in court-fee stamps.

21. The cost of registering an agreement under sub-section (2) of section 12 shall be paid by the creditors amount payable by each creditor being proportionate to the compounded debt stated to be payable to him under the agreement and on default shall be recoverable from him as an arrear of land revenue.

22. The process fee on every application to the Deputy Commissioner for the recovery of any amount under sub-section (1) of section 13 shall be paid in advance by the creditor in accordance with the rules from time to time made under the Central Provinces Land Revenue Act, 1917, in court-fee stamps.

23. The stamp duty on an agreement drawn up under sub-section (1) of section 12 shall be payable by the debtor in non-judicial stamps.

24. Every application for a copy shall be addressed to the Chairman and shall bear a court-fee stamp of the value of †two annas.

25. Copying fees for copies of records maintained by the Board and in its custody shall be charged at the rate of four annas for every 180 English words or 270 vernacular words, four figures being counted as one word.

26. Every application for a copy shall be accompanied by an advance sufficient to cover the estimated cost of the copy applied for.

27. The Chairman may then get the copy prepared on plain paper certified as a true copy over his signature and deliver it to

*Substituted by Notification No. 4021-647-XII, dated the 28th October 1936.

†Substituted for one by Notification No. 4683-4033-XII, dated the 14th December 1936.

the applicant or his duly authorized agent and also refund him the balance, if any, left out of the advance after meeting the copying charges.

28. The fees chargeable under rules 25 and 26 shall be paid in cash to the Chairman who shall forthwith give a receipt over his signature to the applicant in the prescribed form and credit the amount into the treasury. Except where it is provided otherwise in these rules the Chairman shall, as far as possible, follow in regard to the grant of copies the procedure laid down in the rules for the grant of copies of revenue records made from time to time under the Central Provinces Land Revenue Act, 1917.

29. The copying of records sent to the district office for safe custody shall be governed by the rules from time to time made under the Central Provinces Land Revenue Act, 1917.

30. (1) The following registers and books shall be maintained by a Board :—

1. Register of cases.
2. Process register.
3. Diet-money register.
4. Inspection book.
5. Copying-fee register.
6. Receipt book.
7. Register of contingent expenditure.

(2) These registers and books shall be maintained in the forms prescribed for revenue case work.

31. The registers and books specified in rule 30 and the proceedings in each case shall, on completion, be transferred to the district office.

*In the district office the proceedings in each case shall be preserved as under, and the registers and books for six years :—

(1) Cases dismissed under section 7 (1)—2 years.

(2) Cases rejected under section 14—

(*a*) Those in which certificates under section 15 have been issued—20 years.

(*b*) Those in which no certificates under section 15 have been issued—2 years.

(3) Cases which have resulted in agreement—3 years after payment of the last instalment or 3 years after the issue of certificate by the Deputy Commissioner under section 13 (2) of the Act.

32. The Board may also, with the approval of the Deputy Commissioner, use such other revenue forms and registers as may be considered necessary by it.

33. The Board shall submit through the Deputy Commissioner, and the Commissioner, to the local Government, a monthly progress return in Form No. V appended to these rules.

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*Notification No. 2037-829-XII, dated the 21st June 1935.

34. The Board shall also submit by the 15th of October every year through the Deputy Commissioner and the Commissioner to the local Government a report on the following particulars :—

(i) Progress of work and results achieved.

(ii) Difficulties experienced in working the Act, and amendments if any, that appear to be necessary to the Act or rules.

35. All the records maintained by the Board and not sent for safe custody to the district officer shall be open to inspection at such time, in such place, and in the presence of such official as the Chairman of the Board may direct, free of charge by the parties, and on payment by others of a fee of 12 annas per hour or part thereof to be prepaid in court-fee stamps.

36. The inspection of records sent to the district office for safe custody shall be governed by the rules from time to time made under the Central Provinces Land Revenue Act, 1917.

37. (1) The Chairman or a member of the Board, if a non-official, shall be entitled to draw travelling allowance for any journey performed by him in connection with his duties as such Chairman or member at the rates admissible, and subject to the conditions applicable, to a Government servant of the second grade under the Supplementary Rules issued by the local Government. Subject to the same conditons, he shall be entitled to daily allowance at the rate of Rs. 3 per day.

(2) The Chairman or a member of a Board, if an official, shall be entitled to draw for any journey travelling allowance and halting allowance to which he would be entitled by virtue of his official position.

(3) The Deputy Commissioner shall be the controlling officer empowered to countersign the travelling allowance bills of the Chairman and members of a Board.

38. The local Government may provide such ministerial and menial staff as the Board may, from time to time, require and may regulate the conditions of their employment and fix the salaries and allowances payable to them.

39. The power of a Board to summon a party or witness shall be the same as is conferred on a revenue officer by section 20 of the Central Provinces Land Revenue Act, 1917.

40. The form of the summons, the mode of serving and the mode of compliance shall be as prescribed, in the case of revenue officers, by sections 21 and 22 of the Central Provinces Land Revenue Act, 1917.

41. Process fees shall be recovered for the issue of summonses and payment of diet-money and travelling expenses shall be made to witnesses, in accordance with the rules from time to time made under the Central Provinces Land Revenue Act, 1917.

42. Every agreement arrived at under sub-section (1) of section 12 shall be registered at the Sub-Registrar's office for the sub-district within which the ordinary headquarters of the Board is situate.

43. A certificate under sub-section (2) of section 13 shall be in Form No. VI appended to these rules.

44. A certificate under sub-section (1) of section 15 shall be in Form No. VII appended to these rules.

45. In all administrative matters the Board shall be subordinate to the Deputy Commissioner and subject to the disciplinary control of the Commissioner and the local Government. The Deputy Commissioner shall appoint, punish and generally control the staff of the Board.

46. All processes issued by the Board shall be served by the tahsil process-serving staff through the Tahsildar of the tahsil concerned.

*47. In every case in which a debtor or a creditor is a minor or a person of unsound mind, the Board and the parties concerned shall, so far as may be, follow the procedure laid down in Order XXXII of the first schedule to the Code of Civil Procedure, 1908.

FORM No. I

(Form of application referred to in rule 6)

To—The Debt Conciliation Board,

.....tahsil.

Under section 4 of the Central Provinces Debt Conciliation Act, I ....son of..... caste....., resident of.....tahsil, beg to apply for settlement of my $\frac{\text{claims}}{\text{debts}}$ between my $\frac{\text{creditors}}{\text{debtors}}$ and myself. The particulars required by section 6 of the Act are as follows:—

Name, residence and full address of creditor or debtor (1)	Amount of debt or claim owed (2)	Particulars of debts, claims including date of commencement, rate of interest, whether secured, and if so, how, etc. (3)
Total ..		

2. I hereby declare that I am unable to pay the debts owed by me as shown above.

*Notification No. 514-XII, dated the 14th February 1934.

3. The amount and particulars of my property including claims due to me are as follows :—

PROPERTY

(*1*) *Immoveable.*

Specification of property (1)	Village (2)	Total area or extent of share and home-farm (3)	Rent or revenue payable (4)	Value (5)	Remarks (6)
Village shares ..					
Malik-makbuza holding ..					
Tenancy ..					
Houses ..					

(2) *Moveable, including cash.—Description.* Value—

(3) *Claims due—*

Name and address of debtor. Amount due.

NOTE—(1) Paragraphs 2 and 3 will be scored out in the case of creditors.

NOTE (2).—The applicant should give full particulars in column (1) whether (*a*) he alone owes the debt, conciliation of which is sought or (*b*) whether he with others owes the debts as co-executants of the bond or as surety ; and (*c*) in the case of decretal debts the names of other judgment-debtors.

Signature of applicant.

Verified that the contents of paragraph of the application are true upon the personal knowledge of, and those in paragraph upon information received and believed to be true by the undersigned.

Declared at.....on.....

Signature of applicant.

FORM No. II

Form of Certificate

[*Section 21 of the Central Provinces Debt Conciliation Act, 1933, and rule 11 of the Central Provinces Debt Conciliation Rules, 1933.*]

This is to certify that an application has been made to this Board for the settlement of the debts of.....(debtor) among which is a debt of Rs.....which the aforesaid debtor is said to be owing to.....of .....(creditor).

Dated.....the.....day of.....193 .

(Seal of the Board.)

Signature of Chairman,
Debt Conciliation Board,
.....district.

•FORM No. III

Form of notice to creditors or debtor under sub-section (2) of section 7 of the Central Provinces Debt Conciliation Act, 1933

[*Rule 14 of the Central Provinces Debt Conciliation Rules, 1933.*]

Notice is hereby given to.....
.....that an application under section 4 of the aforesaid Act has been submitted for the settlement of the debt of.....and will be examined by the Board, together with any objections that may be preferred by any person interested at.....at.....o'clock on the.....day of.....193 .

Dated.....the.....day of.....193 .

(Seal of the Board.)

Signature of Chairman,
Debt Conciliation Board,
.....district.

FORM No. IV

Form of notice under sub-section (1) of section 8 of the Central Provinces Debt Conciliation Act, 1933

[*Rule 15 of the Central Provinces Debt Conciliation Rules, 1933.*]

*Whereas....., son of....., caste....., of....., tahsil ....., debtors / creditors has submitted an application under section 4 of the aforesaid Act for the settlement of the debts of....., son of....., caste ....., of....., tahsil ....., and whereas the Board is of the opinion that it is desirable to attempt to effect a settlement between the said debtor and his creditor, you as / all / one of the creditors / the creditors to whom the said debtor is indebted are hereby required to submit to the Board† a statement in writing on or before the.....at the Board's office at.....of all debts owed to you / them by the said debtor. The Board will scrutinize this statement at 11 a.m. on.....day.....when you should appear before the Board.

2. You / All the creditors are also required to furnsih, along with such statement, full particulars of all such debts and shall at the same time produce all documents, including entries in books of account on which you / they rely to support your / their claims, together with a true copy of every such document.

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*Notification No. 339-2758-XII of 1933, dated the 5th February 1934.

†Notification No. 1899-XII, dated the 7th June 1935.

Attention is invited to section 8 (2) of the said Act under which every debt of which a statement is not submitted to the board in compliance with this notice shall be deemed for all purposes and all occasions to have been duly discharged.

3. The settlement in this case will take place at..... at 11 a.m., on the.....day of..... .....193 when you should apepar before the Board.

Dated.....the.....day of.....193 .

(Seal of the Board.)

Signature of Chairman,
Debt Conciliation Board,
.....*district*

FORM No. V

Monthly progress return for the month of.....193 *of the Debt Conciliation Board,*.....*district.*

[Rule 33 of the Central Provinces Debt Conciliation Rules, 1933.]

Cases pending at the beginning of the month		Cases registered during the month		Cases disposed of during the month										Cases pending at close of month		Number of certificates issued under section 15 (1)			Average number of instalments allowed in consiliated cases	Multiple of rent or revenue for such instalment	Number of days on which the Board sat during the month.
				Dismissed under section 7 (1)		Agreements executed under section 12 (1)						Cases dismissed under section 14									
Number	Amount involved	Number	Amount involved	Number	Amount involved	Number	Amount	Amount due to those who agree	Amount in agreement	Amount conciliated by transfer of land	Area of land transferred.	Number	Amount	Number	Amount	Number of cases	Number of certificates	Amount due to creditor against whom certificate is granted			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)

FORM No. VI

Form of Certificate under section 13 (2) of the Central Provinces Debt Conciliation Act, 1933

[*Rule 43 of the Central Provinces Debt Conciliation Rules, 1933.*]

This is to certify that every reasonable effort was made by me or under my orders to recover the arrears of the amount due from ..... of ..... to ..... of ..... under agreement No. ..... registered at..... on ..... by the Chairman of the Debt Conciliation Board, ... The amount of the arrear recovered is Rs. ..... and the irrecoverable balance is Rs. .....

Dated.....the.....day of.....193 .

(Seal of Deputy Commissioner.)

Signature of the Deputy Commissioner,
.....*district.*

FORM No. VII

Form of Certificate under section 15 (1) of the Central Provinces Debt Conciliation Act, 1933

[*Rule 44 of the Central Provinces Debt Conciliation Rules, 1933.*]

This is to certify that during proceedings No. ..... of .....under the Central Provinces Debt Conciliation Act, 1933, between.....of ..... (debtor) on one hand and.....of ..... (creditor) on the other hand, for the settlement of an alleged debt of Rs. .....the said creditor has, in our opinion, refused a fair offer of settlement made by the said debtor, which the said creditor ought reasonably to have accepted.

2. The following particulars of the debt were furnished by the said creditor under section 8 (1) of the Act.

[*Particulars.*]

Dated.....the.....day of.....193 .

(Seal of the Board.)

Signature of the Chairman,
Debt Conciliation Board,
.....district.

THE CENTRAL PROVINCES DEBT CONCILIATION ACT, 1933 (II OF 1933) ,*[AS APPLIED TO BERAR] AND AS AMENDED BY ACTS Nos. I OF 1934, XIV AND XXVIII OF 1935, XV AND XXXIII OF 1936 AND XVI AND XVII OF 1937

TABLE OF CONTENTS

Preamble.

SECTION

1. Short title, extent and commencement.
2. Definitions.
3. Establishment of Debt Conciliation Board.
4. Application for settlement between debtor and his creditors.
5. Verification of applications.
6. Particulars to be stated in application.
7. Procedure on application.

7-A. Finality of Board's jurisdiction.

8. Notice calling upon creditors to submit statement of debts.
9. Procedure on submission of statement of debts.

9-A. Verification of statement and particulars of debts.

10. Board to endeavour amicable settlement.
11. Power of Board to require attendance of persons and production of documents and to receive evidence.
12. Agreement of amicable settlement, its registration and effect.

12-A. Existing mortgage, lien or charge to subsist.

13. Recovery of sums due under agreement.

13-A. Power to deposit amount of instalment with Deputy Commissioner.

13-B. Grant of receipt for deposit and payment of deposit.

13-C. Debtors to be deemed to have fulfilled terms of agreement.

13-D. Bar of suits or other legal proceedings.

14. Power of Board to dismiss application.
15. Grant of certificate by board in respect of certain debts and power of courts to disallow costs or interest.
16. Bar of civil suits.
17. Avoidance of certain transfers of debtor's property.
18. Bar of appeal or revision.

* *Vide* Government of India, Foreign Department, Notification No. 81-1, dated the 21st February 1934.

SECTION

19. Power of Board to review its order.
20. Appearance of party before Board by agent but not by legal practitioner.
21. Suspension of pending application or suit.
22. Submission of reports by Boards regarding sums due to Government.
23. Allowance of time for limitation.
24. Members of Board deemed to be public servants.
24-A. Proceedings deemed to be judicial proceedings.
25. Power to make rules.
26. General provisions regarding rules.

THE CENTRAL PROVINCES DEBT CONCILIATION ACT, 1933 (II OF 1933), AS APPLIED TO BERAR AND AS AMENDED BY ACTS NOS. I OF 1934, XVI AND XXVIII OF 1935 XV AND XXXIII OF 1936 AND XVI AND XVII OF 1937

THE CENTRAL PROVINCES DEBT CONCILIATION ACT, 1933.

An Act to make provision for the setting up of Debt Conciliation Boards to relieve agriculturists from indebtedness.

Preamble

WHEREAS it is expedient to relieve agriculturists from indebtedness by amicable settlement between them and their creditors;

AND WHEREAS the previous sanction of the Governor General required by sub-section (3) of section 80-A of the Government of India Act has been obtained to the passing of this Act;

It is hereby enacted as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Central Provinces Debt Conciliation Act, 1933.

(2) It extends to the whole of the Central Provinces.

(3) It shall come into force on such date as the local Government may, by notification, direct.

[The Act was extended to Berar with effect from the 1st April 1934 (*vide* Notification No. 875-862-XII, dated the 13th March 1934).]

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) the expressions "holder", "holding" and "village" shall have the meanings assigned to them in the Berar Land Revenue Code, 1928.

(*b*) "Agriculture" includes—

(i) the raising of annual or periodical crops and garden produce;

(ii) horticulture;

(iii) the planting and upkeep of orchards, and

(iv) the reserving of land for fodder, grazing or thatching grass;

(*c*) "Board" means a Debt Conciliation Board established under sub-section (1) of section 3;

(*d*) "creditor" means a person to whom a debt is owing and includes a co-operative society;

(*e*) "debt" includes all liabilities owing to a creditor, in cash or kind, secured or unsecured, payable under a decree or order of a civil court or otherwise, whether due or not due, but shall not include arrears of wages, land revenue or anything recoverable as an arrear of land revenue, or any money for the recovery of which a suit is barred by limitation;

(*f*) "debtor" means a person who earns his livelihood mainly by agriculture and who is a holder whose debts exceed Rs. 150 *[or such lower amount, not being less than fifty rupees, as the Local Government may, by notification, prescribe for a particular area];

(*g*) "prescribed" means prescribed by rules made under this Act.

Establishment of Debt Conciliation Board.

3. (1) The local Government may establish a Debt Conciliation Board for any district or part of a district. Such Board shall consist of a Chairman and two or more members, not exceeding nine, including the Chairman, to be appointed by the local Government which may, for reasons to be recorded in writing, cancel any appointment and dissolve any Board.

(2) The Chairman and every member of a Board so established shall be appointed for a term not exceeding one year. Such Chairman or member may, on the expiration of the period for which he has been appointed, be again appointed †[from time to time] for a further term not exceeding one year.

(3) A Board shall have such quorum as may be prescribed.

(4) Where the Chairman and members of a Board are unable to agree, the opinion of the majority shall prevail. Where the Board is equally divided the Chairman shall have a casting vote.

‡[(5) If at any time the Chairman of a Board is temporarily prevented from discharging his duties, he may nominate any member thereof to act for him during his temporary absence and such member shall, while so acting, have the same powers as the Chairman.]

Application for settlement between debtor and his creditors.

4. (1) A debtor or any of his creditors may apply to the Board appointed for the area in which any holding or village of the debtor, or any part thereof, is situate, to effect a settlement between the debtor and his creditors:

Provided that no application shall be made if the debtor's debts exceed §[fifty] thousand rupees or such larger amount as may be prescribed for each area.

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* Inserted by Act XVI of 1937.

†Inserted by Act XXVIII of 1935.

‡Inserted by Act XIV of 1935.

§ For the word "twenty-five" the word "fifty" was inserted by Act XVII of 1937.

(2) No debtor or creditor shall simultaneously make more than one application, and where applications have been made by the debtor and any of his creditors, the applications made by the creditors shall be merged in the application made by the debtor.

Verification of application.

5. Every application to a Board shall be in writing and shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1908 (V of 1908), for signing and verifying plaints.

Particulars to be stated in application.

6. (1) Every application presented by a debtor to a Board shall contain the following particulars, namely :—

(*a*) a statement that the debtor is unable to pay his debts;
(*b*) the place where he resides;
(*c*) the amount and particulars of all claims against him, together with the names and residences of his creditors, and, in the case of a creditor who is a minor or lunatic, the name of his guardian or the person in whose charge the property of such creditor is, so far as they are known to, or can, by the exercise of reasonable care and diligence, be ascertained by him; and
(*d*) the amount and particulars of all his property, including claims due to him, together with a specification of the value of such property not consisting of money, and the place or places at which any such property is to be found.

(2) Every application presented by a creditor shall contain the following particulars, namely :—

(*a*) the place where the debtor resides; and
(*b*) the amount and particulars of his claim against such debtor.

Procedure on application.

7. (1) On receipt of an application under section 4, the Board shall pass an order fixing a date and place for hearing the application :

Provided that the Board may at any time dismiss the application if, for reasons to be stated in writing, it does not consider it desirable to attempt to effect a settlement between the debtor and his creditors.

(2) Notice of the order under sub-section (1) shall be sent by registered post to the debtor or creditors, as the case may be.

Finality of Board's jurisdiction.

*7-A. (1) If, on receipt of an application under section 4, the Board admits the application as being within its jurisdiction or, under sub-section (1) of section 7, dismisses it on the ground

*Section 7-A was inserted by Act XV of 1936.

of want of jurisdiction, a debtor or his creditor may, within thirty days from the date of admission or of the order of dismissal, as the case may be, make an objection in writing to the Board against such admission or dismissal.

(2) On receipt of an objection under sub-section (1), the Board shall make such order thereon as it thinks fit and it shall be final.

(3) If no objection is made under sub-section (1), or if an objection is made and decided under sub-section (2), the jurisdiction of the Board shall not be questioned in any civil court.

Notice calling upon creditors to submit statement of debts.

8. (1) If, after examining the debtor, it is in the opinion of the Board desirable to attempt to effect a settlement between him and his creditors, a notice shall be issued and served or published in the manner prescribed, calling upon every creditor of the debtor to submit a statement of debts owed to such creditor by the debtor. *[Such statement shall be submitted to the Board in writing on or before such date as the Board may fix in this behalf, not being earlier than two months from the date of service or publication of the notice, as the case may be:]

Provided that, if the Board is satisfied that any creditor was, for good and sufficient cause, unable to comply with such directions, it shall extend the period for the submission of his statement of the debt owed to him.

(2) Every debt of which a statement is not submitted to the Board in compliance with the provisions of sub-section (1) shall be deemed for all purposes and all occasions to have been duly discharged:

Provided that, if a creditor proves to the satisfaction of the Board or a civil court that the notice was not served on him and that he had no knowledge of its publication, or that he was prevented from complying with the provisions of sub-section (1) on account of unforeseen or unavoidable difficulty or cause, the Board or civil court shall revive the debt.

Procedure on submission of statement of debts.

9. (1) Every creditor submitting a statement of the debts owed to him in compliance with a notice issued under sub-section (1) of section 8 shall furnish, along with such statement, full particulars of all such debts and shall at the same time produce all documents, including entries in books of account on which he relies to support his claims, together with a true copy of every such document:

†Provided that, if the Board is satisfied that any creditor was, for good and sufficient cause, unable to produce such documents along with the statement, it shall require them to be produced on a date fixed for the purpose.

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*Substituted by Act XIV of 1935.
†Inserted by Act XXVIII of 1935.

(2) The Board shall, after marking for the purpose of identification every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the creditor.

(3) If any document which is in the possession or under the control of the creditor is not produced by him as required by sub-section (1), the document shall not be admissible in evidence against the debtor or his heirs in any suit brought by the creditor or by any person claiming under him.

Verification of statement and particulars of debts.

*[9-A. Every statement submitted under sub-section (1) of section 8, together with all particulars furnished along with it under sub-section (1) of section 9, shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1908 (V of 1908), for signing and verifying plaints.]

Board to endeavour amicable settlement.

10. The Board shall call upon the debtor and each creditor, respectively, to explain his case regarding each debt and shall endeavour to induce them to arrive at an amicable settlement.

Power of Board to require attendance of persons and production of documents and to receive evidence.

11. (1) Subject to the provisions of sections 132 and 133 of the Code of Civil Procedure, 1908 (V of 1908), and to rules made under section 25 a Board shall have power to summon any person whose attendance it considers necessary either to be examined as a party or to give evidence as a witness or to produce any document *[for the purpose of ascertaining the antecedents of any debt or for any other purpose in connection with an inquiry under this Act].

(2) Any person present may be required by a Board to give evidence or to produce any document then and there in his possession or power.

Agreement of amicable settlement, its registration and effect.

12. (1) If the creditors to whom not less than forty per cent of the total amount of the debtor's debts are owing come to an amicable settlement with the debtor, such settlement shall forthwith be reduced to writing in the form of an agreement recording †[a list of immovable properties of the debtor with particulars of any mortgage, lien or charge subsisting thereon,] the amounts payable to such creditors and the manner in which and the times at which they are to be paid. Such agreement shall be read out and explained to the parties concerned, and shall be signed or otherwise authenticated by the Board and the parties:

Provided that, when a co-operative society is one of such creditors, no settlement, in so far as it affects the debts owing to such society, shall be valid without the previous approval in writing of the Registrar of Co-operative Societies.

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*Section 9-A was inserted and the addition to section 11 (1) was made by Act XXXVIII of 1936.

† These words were inserted by Act XV of 1936.

(2) An agreement thus made shall, within* one month from the date of its making, be registered under the Indian Registration Act, 1908 (XVI of 1908), by the Chairman of the Board in such manner as may be prescribed and it shall then take effect as if it were a decree of a civil court.

(3) For the purpose of the registration of an agreement under sub-section (2), the Chairman of the Board shall be deemed to be an officer of Government empowered to execute such agreement within the meaning of section 88 of the Indian Registration Act, 1908 (XVI of 1908).

Existing mortgage, lien or charge to subsist.

†[**12-A.** Where an agreement registered under sub-section (2) of section 12 relates to a debt which is secured by a mortgage, lien or charge on any immovable property of a debtor, such mortgage, lien or charge shall subsist to the extent of the amount payable to the creditor in respect of such debt in accordance with the terms of the agreement until such amount has been paid or the property has been sold for the satisfaction of such debt.]

Recovery of sums due under agreement.

†[**13.** (1) If a debtor defaults in paying any amount due in accordance with the terms of an agreement registered under sub-section (2) of section 12, such amount shall be recoverable as an arrear of land revenue on the application of the creditor made within ninety days from the date of default.

(2) Where the Deputy Commissioner has, under sub-section (1), recovered any amount which was payable in accordance with the terms of the agreement, he shall proceed to make payments as follows:—

(*a*) He shall, in the first instance, apply the sum realized from the sale of any portion of the immovable property referred to in section 12-A to the payment of any amount payable under the agreement on account of a debt which is secured by a mortgage, lien or charge on such property in order of priority determined in accordance with the provisions of the Transfer of Property Act, 1882 (IV of 1882), and, if the said sum is insufficient to meet such payments, the amounts which have remained unpaid shall rank equally with unsecured debt:

(*b*) If there is a surplus after the payments have been made under clause (*a*), the Deputy Commissioner shall apply to the payment of any other amounts payable under the agreement the sum of the surplus and of the proceeds realized from the sale of such portion of any other property of the debtor as will, together with the surplus, be sufficient to meet the payment of such amounts.

(*c*) If the sum of the surplus and sale proceeds referred to in clause (*b*) is insufficient to meet the payment of other amounts referred to therein, such other

*For the words " Fourteen days " the words " one month " were inserted by Act XIV of 1935.

†Section 12-A was inserted and section 13 was substituted by Act XV of 1936.

amounts and any amount payable on account of any unsecured debt for the recovery of which a decree has been passed by a civil court and of which details are given in the agreement shall rank equally between themselves for the purposes of payment.

(*d*) Any further surplus remaining after the payments have been made under clauses (*a*), (*b*) and (*c*) shall be paid by the Deputy Commissioner to the debtor.

(3) Where the Deputy Commissioner fails, under sub-section (1), to recover as an arrear of land revenue any part of the amount referred to therein, he shall certify that it is irrecoverable and thereupon the agreement shall cease to subsist.

(4) Where an agreement ceases to subsist, any amount which was payable under such agreement but has not been paid shall be recoverable as if a decree of a civil court had then been passed for its payment.]

Power to deposit amount of instalment with Deputy Commissioner.

*[13-A. (1) If a creditor refuses to accept any amount tendered to him by his debtor in accordance with the terms of an agreement registered under sub-section (2) of section 12, or if, in any case, the debtor is doubtful as to the person entitled to receive such amount, the debtor may apply to the Deputy Commissioner for permission to deposit such amount with him.

(2) An application made under sub-section (1) shall be in writing and shall contain—

(*a*) a statement of the grounds on which it has been made,

(*b*) the name of the creditor to whose credit the deposit is to be entered, and

(*c*) the name of the person to whom payment was last made and of the person now claiming it.

Grant of receipt for deposit.

13-B. (1) If it appears to the Deputy Commissioner that the applicant is entitled to make the deposit under section 13-A, he shall receive such deposit and give a receipt therefor.

Payment of deposit.

(2) The Deputy Commissioner shall cause a notice of such deposit to be served on every person who, he has reason to believe, claims or is entitled to it and may pay the amount thereof to any person appearing to him to be entitled to it, or may retain it pending the decision of a civil court as to the person entitled to it..

Debtor to be deemed to have fulfilled terms of agreement.

13-C. A debtor who has made a deposit under section 13-B shall be held to have fulfilled the terms of the agreement.]

*Sections 13-A, B and C were inserted by Act XXXIII of 1936.

Bar of Suits or other legal proceedings.

*[13-D. No suit or other legal proceeding shall be instituted against the Secretary of State in Council or any officer of Government in respect of anything done regarding a deposit under this Act, but nothing in this section shall prevent any person entitled to recover the amount of such deposit from recovering it from any person to whom it has been paid under section 13-B.]

Power of Board to dismiss application.

14. If no amicable settlement is arrived at under sub-section (1) of section 12, the Board shall dismiss the application.

Grant of certificate by Board in respect of certain debts.

15. (1) Where, during the hearing of any application made under section 4, any creditor refuses to agree to an amicable settlement, the Board may, if it is of opinion that the debtor has made such creditor a fair offer which the creditor ought reasonably to accept, grant the debtor a certificate, in such form as may be prescribed, in respect of the debts owed by him to such creditor.

Power of court to disallow costs or interest.

(2) Where any creditor sues in a civil court for the recovery of a debt in respect of which a certificate has been granted under sub-section (1), the court shall, notwithstanding the provisions of any law for the time being in force, not allow the plaintiff any costs in such suit, or any interest on the debt after the date of such certificate in excess of simple interest at six per cent per annum on the amount due on the date of such certificate.

(3) Where, after the registration of an agreement under sub-section (2) of section 12, any unsecured creditor sues for the recovery of a debt, other than a debt incurred subsequent to such agreement, in respect of which a certificate has been granted under sub-section (1) or any creditor sues for the recovery of a debt incurred after the date of such registration, any decree passed in such suit shall, notwithstanding anything contained in the Code of Civil Procedure, 1908 (V of 1908), not be executed until all amounts recorded as payable under such agreement have been paid or such agreement has ceased to subsist:

†[Provided that the provision in this sub-section shall not apply to the execution of a decree passed in a suit for the recovery of rent as defined in the Berar Land Revenue Code, 1928]

*Section 13-II was inserted by Act XXXIII of 1936.

†Added by Act XIV of 1933.

Bar of civil suits.

16. No civil court shall entertain—

(*a*) any suit in respect of—

(i) any matter pending before a Board, or

(ii) the validity of any procedure or the legality of any agreement made under this Act, or

(iii) the recovery of any debt recorded as wholly or partly payable under an agreement registered under sub-section (2) of section 12 from any person who, as a debtor, was party to such agreement whether such agreement is subsisting or not, or

(iv) the recovery of any debt which has been deemed to have been duly discharged under sub-section (2) of section 8, except a debt which is revived under the proviso to that sub-section;

(*b*) any application to execute a decree, the execution of which is suspended under sub-section (3) of section 15

Avoidance of certain transfers of debtor's property.

17. Every transfer of property made, with intent to defeat or delay the creditors of the debtor, after an application has been made to a Board under section 4 and until the agreement registered in respect of such application has ceased to subsist, shall be voidable at the option of any creditor so defeated or delayed.

Bar of appeal or revision.

18. No appeal or application for revision shall lie against any order passed by a Board.

Power of Board to review its order.

19. A Board may *[either on its own motion at any time or] on the application from any person interested made within ninety days of the passing an order, review any order passed by it and pass such order in reference thereto as it thinks fit:

Provided that no order shall be varied or reversed unless notice has been given to the persons interested to appear and be heard in support of such order.

Appearance of party before Board by agent but not by legal practitioner.

20. In any proceedings before a Board any party may be permitted to appear by an agent authorized in writing, but not by a legal practitioner.

Suspension of pending application or suit.

†21. When an application has been made to a Board under section 4, any suit or other proceedings then pending before a

*Inserted by Act XXXIII of 1936.

†This revised section was inserted by Act XIV of 1935.

civil court in respect of any debt for the settlement of which application has been made shall be suspended until the Board has disposed of the application:

Provided that no decree, whether passed before the date of such application or passed in the suit after revival, for the recovery of an unsecured debt in respect of which a certificate has been granted under sub-section (1) of section 15, shall be executed until all amounts recorded as payable under an agreement registered under sub-section (2) of section 12 have been paid or such agreement has ceased to subsist.

Submission of reports by Boards regarding sums due to Government.

22. Where in the course of an inquiry into an application made under section 4 a Board finds that there is any sum owing to Government on account of loans advanced under the Agriculturists Loans Act, 1884 (XII of 1884), or the Land Improvement Loans Act, 1883 (XIX of 1883), or otherwise, the Board shall report this act through the Deputy Commissioner to the Commissioner.

Allowance time for limitation.

23. In calculating the period of limitation for any suit filed in, or proceeding before, a civil court for the recovery of a debt which was the subject of any proceedings under this Act, the time during which such proceedings had continued shall be excluded.

Members of Board deemed to be public servants.

24. The members of a Board shall be deemed to be public servants within the meaning of the Indian Penal Code, 1860 (XLV of 1860).

Proceedings deemed to be judicial proceedings.

*[24-A. All proceedings under this Act, shall be deemed to be judicial proceedings within the meaning of section 228 of the Indian Penal Code.]

Power to make rules.

25. In addition to any power specially conferred by this Act the local Government may make rules—

(*a*) prescribing the quorum for, and regulating the procedure before, a Board;

(*b*) prescribing the manner in which notices shall be issued and served or published under sub-section (1) of section 8;

(*c*) prescribing the charges to be made by a Board for anything done under this Act and the persons by whom and the manner in which such charges shall be paid;

(*d*) prescribing the records to be kept and the returns to be made by a Board;

(*e*) prescribing the allowances, if any, to be paid to the Chairman and members of a Board;

* Section 24-A was inserted by Act XVI of 1937.

(*f*) regulating the power of a Board to summon parties and witnesses under section 11 and the grant of expenses to witnesses;

(*g*) prescribing the place at which and the manner in which an agreement shall be registered under sub-section (2) of section 12;

(*h*) prescribing the form of certificate to be granted under sub-section (3)* of section 13 or sub-section (1) of section 15; and

(*i*) generally for the purpose of carrying into effect the provisions of this Act.

General provisions regarding rules.

26. (1) All rules for which provision is made in this Act shall be made by the local Government and shall be consistent with this Act.

(2) All rules shall be subject to the condition of previous publication.

(3) In making any rule the local Government may direct that a breach thereof shall be punishable with fine which may extend to fifty rupees, and, where the breach is a continuing one, with further fine which may extend to ten rupees for every day after the first during which the breach has been persisted in.

*For the figure (2) the figure (3) was inserted by Act XV of 1936.

*RULES UNDER THE CENTRAL PROVINCES DEBT CONCILIATION ACT, 1933, AS APPLIED TO BERAR

1. (1) These rules may be called the Berar Debt Conciliation Rules, 1934.

(2) In these rules "Act" means the Central Provinces Debt Conciliation Act, 1933, as applied to Berar.

2. The quorum necessary for the transaction of business at a meeting of a Board shall be as follows:—

Quorum.

(i) In the case of a Board where the number of members is 3. 2

(ii) Where the number of members is more than 3

Provided that a Board having a quorum may act notwithstanding any vacancy in the number of its members other than the Chairman.

3. The Chairman shall preside at every meeting of the Board and shall regulate the course of all business.

4. (1) The Board shall ordinarily hold its sitting at such place as may be appointed as its headquarters by the Deputy Commissioner, but may sit at any other place within its jurisdiction for the convenient disposal of its business.

(2) The Board shall hold its sittings at such times as may be fixed from time to time by the Chairman and may adjourn its proceedings for any period if such adjournment is, in its opinion, necessary for the proper conduct of the proceedings.

5. The parties shall be notified by the Chairman in such manner as he may deem necessary, of the time, and, if the place is other than the Board's ordinary headquarters, of the place at which the Board's sittings are to be held unless a special method for the service of a notice is prescribed by the Act.

6. An application under section 4 shall be made in Form No. I appended to these rules, and shall be presented at any time during court hours by the applicant in person or by an agent authorized in writing to the Chairman or any member of the Board. With it an occupant of khalsa land or a tenant of alienated land may be required by the Board, by general or special order, to produce his *rasid bahi* and a copy of entries in the record of rights of all land held by him.

7. Any member of the Board may examine the applicant in order to verify the accuracy of the particulars contained in the application and may call for additional information to complete the application.

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* Notification No. 1796-XII, dated the 6th June 1934.

8. If it is decided to proceed with the application the order under sub-section (1) of section 7 shall be recorded on an order sheet in the form prescribed for revenue cases. This form shall contain a note of every interlocutory order made in the case and shall show the date and place of the proceedings at every hearing. The proceedings shall be conducted, as nearly as may be, in accordance with the rules and procedure prescribed for the disposal of revenue cases under the Berar Land Revenue Code, 1928.

9. Every application shall be made into a revenue case and dealt with according to the instructions in the Berar Revenue Book Circular II-1.

10. An abstract of the statement made by each witness and the statements of the parties shall be filed with the record.

11. If at any time during the course of the proceedings it appears to the Board that any creditor has filed a suit or started any other proceedings which should be suspended under section 21 of the Act, the Board shall grant a certificate in Form No. II appended to these rules over the signature of the Chairman to the debtor concerned, specifying the debts owing to any such creditor which may be under settlement.

12. All certificates granted by the Board and all notices, summonses and other processes issued by the Board shall be signed by the Chairman and shall be dated and sealed with the seal of the Board.

13. The proceedings of the Board shall be recorded in English unless the Chairman decides to record them in the local vernacular.

14. Every notice under sub-section (2) of section 7 of the Act shall be in Form No. III appended to these rules.

15. Every notice under sub-section (1) of section 8 of the Act shall be in Form No. IV appended to these rules.

16. A copy of the notice under sub-section (1) of section 8 shall be served on each known creditor. A copy shall also be posted on the district and taluq office notice boards and the notice board of the Board's office. A copy shall also be posted in the chaudi of the village where the debtor ordinarily resides and of all the villages within the area for which the Board has been appointed where any holding or land of the debtor or any part thereof is situate.

17. Every notice required to be served under the above rule may be served either by tendering or delivering a copy thereof or sending such copy by registered post to the creditor on whom it is to be served or his authorized agent, or if service in the manner aforesaid cannot be made, by affixing a copy thereof at his last known place of residence.

18. No notice shall be deemed void on account of any error in the name or designation of any person referred to therein unless such error has produced substantial injustice.

*19. Every application to the broad shall be stamped with a court-fee stamp of the value of twelve annas. Further additional fees on the amount for which the debt is settled shall be charged and collected in the shape of court-fee stamps, at the rates indicated below :—

(1) If the amount of the debt settled does not exceed Rs. 500—Re. 0-8-0.

(2) If the amount of the debt settled exceeds Rs. 500, but does not exceed Rs. 1,000—Re. 1.

(3) If the amount of the debt settled exceeds Rs. 1,000—Re. 1 for the first Rs. 1,000 and Re. 0-8-0 for every Rs. 500 or fraction thereof above Rs. 1,000.

No additional fees shall be recovered in cases in which the applications are rejected or no settlement is arrived at.

20. Process fees shall be paid by the applicant for the ssue of notices and summonses in accordance with the scales prescribed from time to time in the rules on the subject made under the Berar Land Revenue Code, 1928, and shall be paid in court-fee stamps.

21. The cost of registering an agreement under sub-section (2) of section 12 shall be paid by the creditors, the amount payable by each creditor being proportionate to the compounded debt stated to be payable to him under the agreement and on default shall be recoverable from him as an arrear of land revenue.

22. The process fee on every application to the Deputy Commissioner for the recovery of any amount under sub-section (1) of section 13 shall be paid in advance by the creditor in accordance with the rules from time to time made under the Berar Land Revenue Code, 1928, in court-fee stamps.

23. The stamps duty on an agreement drawn up under sub-section (1) of section 12 shall be payable by the debtor in non-judicial stamps.

24. Every application for a copy shall be addressed to the Chairman and shall bear a court-fee stamp of the value of †two annas.

25. Copying fees for copies of records maintained by the Board and in its custody shall be charged at the rate of four annas for every 180 English words or 270 vernacular words, four figures being counted as one word.

26. Every application for a copy shall be accompanied by an advance sufficient to cover the estimated cost of the copy applied for.

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* Notification No. 4022-647-XII, dated the 20th October 1936.

†Substituted for one by Notification No. 4684-4033-XII, dated the 14th December 1936.

27. The Chairman may then get the copy prepared on plain paper certified as a true copy over his signature and deliver it to the applicant or his duly authorized agent and also refund him the balance, if any, left out of the advance after meeting the copying charges.

28. The fees chargeable under rules 25 and 26 shall be paid in cash to the Chairman who shall forthwith give a receipt over his signature to the applicant in the prescribed form and credit the amount into the treasury. Except where it is provided otherwise in these rules, the Chairman shall, as far as possible, follow in regard to the grant of copies the procedure laid down in the rules for the grant of copies of revenue records made from time to time under the Berar Land Revenue Code, 1928.

29. The copying of records sent to the district office for safe custody shall be governed by the rules from time to time made under the Berar Land Revenue Code, 1928.

30. (1) The following registers and books shall be maintained by a Board :—

1. Register of cases.
2. Process register.
3. Diet-money register.
4. Inspection book.
5. Copying-fee register.
6. Receipt book.
7. Register of contingent expenditure.

(2) These registers and books shall be maintained in the forms prescribed for revenue case work.

31. The registers and books specified in rule 30 and the proceedings in each case shall, on completion, be transferred to the district office.

In the district office the proceedings in each case shall be preserved as under and the registers and books for six years :—

(1) Cases dismissed under section 7 (1)—2 years.

(2) Cases rejected under section 14—

(*a*) Those in which certificates under section 15 have been issued—20 years.

(*b*) Those in which no certificates under section 15 have been issued—2 years.

(3) Cases which have resulted in agreement—3 years after payment of the last instalment or 3 years after the issue of certificate by the Deputy Commissioner under section 13 (2) of the Act.

32. The Board may also, with the approval of the Deputy Commissioner, use such other revenue forms and registers as may be considered necessary by it.

33. The Board shall submit, through the Deputy Commissioner and the Commissioner, to the local Government a monthly progress return in Form No. V appended to these rules.

34. The Board shall also submit by the 15th of October every year, through the Deputy Commissioner and the Commissioner, to the local Government a report on the following particulars :—

(i) Progress of work and results achieved.

(ii) Difficulties experienced in working the Act, and amendments, if any, that appear to be necessary to the Act or rules.

35. All the records maintained by the Board and not sent for safe custody to the district office shall be open to inspection at such time, in such place, and in the presence of such official as the Chairman of the Board may direct, free of charge by the parties, and on payment by others of a fee of 12 annas per hour or part thereof to be prepaid in court-fee stamps.

36. The inspection of records sent to the district office for safe custody shall be governed by the rules from time to time made under the Berar Land Revenue Code, 1928.

37. (1) The Chairman or a member of the Board, if a non-official, shall be entitled to draw travelling allowance for any journey performed by him in connection with his duties as such Chairman or member at the rates admissible, and subject to the conditions applicable to a Government servant of the second grade under the Supplementary Rules issued by the local Government. Subject to the same conditions, he shall be entitled to daily allowance at the rate of Rs. 3 per day.

(2) The Chairman or a member of a Board, if an official, shall be entitled to draw for any journey travelling allowance and halting allowance to which he would be entitled by virtue of his official position.

(3) The Deputy Commissioner shall be the controlling officer empowered to countersign the travelling allowance bills of the Chairman and members of a Board.

38. The local Government may provide such ministerial and menial staff as the Board may, from time to time, require and may regulate the conditions of their employment and fix the salaries and allowances payable to them.

39. The power of a Board to summon a party or witness shall be the same as is conferred on a revenue officer by section 20 of the Berar Land Revenue Code, 1928.

40. The form of the summons, the mode of serving and the mode of compliance shall be as prescribed, in the case of revenue officers, by sections 21 and 22 of the Berar Land Revenue Code, 1928.

41. Process fees shall be recovered for the issue of summonses and payment of diet-money and travelling expenses shall be made to witnesses, in accordance with the rules from time to time made under the Berar Land Revenue Code, 1928.

42. Every agreement arrived at under sub-section (1) of section 12 shall be registered at the Sub-Registrar's office for the sub-district within which the ordinary headquarters of the Board is situate.

43. A certificate under sub-section (2) of section 13 shall be in Form No. VI appended to these rules.

44. A certificate under sub-section (1) of section 15 shall be in Form No. VII appended to these rules.

45. In all administrative matters the Board shall be subordinate to the Deputy Commissioner and subject to the disciplinary control of the Commissioner and local Government. The Deputy Commissioner shall appoint, punish and generally control the staff of the Board.

46. All processes issued by the Board shall be served by the tahsil process-serving staff through the Tahsildar of the taluq concerned.

47. In every case in which a debtor or a creditor is a minor or a person of unsound mind, the Board and the parties concerned shall, so far as may be, follow the procedure laid down in Order XXXII of the first schedule to the Code of Civil Procedure, 1908, as applied to Berar.

FORM No. I

Form of application referred to in rule 6

To—The Debt Conciliation Board,

.. ..taluq.

Under section 4 of the Central Provinces Debt Conciliation Act, as applied to Berar, I..... ..... , son of ... . caste ....., resident of ..... taluq, beg to apply for a settlement of my $\frac{\text{debts}}{\text{claims}}$ between my $\frac{\text{creditor}}{\text{debtors}}$ and myself. The particulars required by section 6 of the Act are as follows:—

Name, residence and full address of creditor or debtor	Amount of debt or claim owned	Particulars of debts, claims, including date of commencement, rate of interest, whether secured, and if so, how, etc.
(1)	(2)	(3)
Total ..		

2. I hereby declare that I am unable to pay the debts owed by me as shown above.

3. The amount and particulars of my property including claims due to me are as follows:—

Property.

(1) *Immovable*—

Specification of property (1)	Village (2)	Total area or extent of share (3)	Rent or revenue payable (4)	Value (5)	Remarks (6)
			Rs.	Rs.	
(*a*) Proprietary rights in alienated villages or lands.					
(*b*) Tenancy rights in alienated villages.					
(*c*) Rights in Khalsa land.					
(*d*) Houses ..					

(2) *Movable, including cash.*—Description. Value and rights to cash emoluments or allowances.

(3) *Claims due*—

Name and address of debtor. Amount due.

NOTE 1.—Paragraphs 1 and 3 will be scored out in the case of creditors.

NOTE 2.—The applicant should give full particulars in column (1) whether (*a*) he alone owes the debt, conciliation of which is sought or (*b*) whether he with others owes the debt as co-executant of the bond or as surety, and (*c*) in the case of decretal debts the names of other judgment debtors.

Signature of applicant.

Verified that the contents of paragraph..... of the application are true upon the personal knowledge of, and those in paragraph..... .. . upon information received and believed to be true by the undersigned.

Declared at ..... on.....

Signature of applicant.

FORM No. II
Form of Certificate

[*Section 21 of the Central Provinces Debt Conciliation Act, 1933, as applied to Berar, and rule 11 of the Berar Debt Conciliation Rules, 1934.*]

This is to certify that an application has been made to this Board for the settlement of the debts of..... (debtor) among which is a debt of Rs. ... . which the aforesaid debtor is said to be owing to ..... of .. ..(creditor).

Dated..... ... the..... day of..... 193 .

(Seal of the Board.)

Signature of Chairman,
Debt Conciliation Board,
district.

FORM No. III

Form of notice to creditors or debtor under sub-section (2) of section 7 of the Central Provinces Debt Conciliation Act, 1933, as applied to Berar

[*Rule 14 of the Berar Debt Conciliation Rules, 1934.*]

Notice is hereby given to..... .... that an application under section 4 of the aforesaid Act has been submitted for the settlement of the debts of..... ....and will be examined by the Board, together with any objections that may be preferred by any person interested at ....at .... o'clock on the .....day of..... .....193 .

Dated.....the..... .....day of. .....193 .

(Seal of the Board.)

Signature of Chairman,
Debt Conciliation Board,
....district.

FORM No. IV

Form of notice under sub-section (1) of section 8 of the Central Provinces Debt Conciliation Act, 1933, as applied to Berar

[*Rule 15 of the Berar Debt Conciliation Rules, 1934.*]

Whereas... .... , son of ..... ,
caste ..... , of ...., taluq ....., $\frac{\text{debtor}}{\text{creditor}}$ has submitted an application under section 4 of the aforesaid Act for the settlement of the debts of..... ...., son of .... , caste ...., of .... , taluq..... .... , and whereas the Board is of the opinion that it is desirable to attempt to effect a settlement between the said debtor and his creditor, $\frac{\text{you as one of the creditors}}{\text{all the creditors}}$ to whom the said debtor is indebted are hereby required to submit to the Board a statement in writing on or before the... . ... at the Board's office at..... , of all debts owed to $\frac{\text{you}}{\text{them}}$ by the said debtor. The Board will scrutinize this statement at 11 a.m. on..... .....day of..... ....when you should appear before the Board.

2. $\frac{\text{You}}{\text{All the creditors}}$ are also required to furnish, along with such statement, full particulars of all such debts and shall at the

same time produce all documents, including entries in books of account on which $\frac{\text{you}}{\text{they}}$ rely to support $\frac{\text{your}}{\text{their}}$ claims, together with a true copy of every such document.

Attention is invited to section 8 (2) of the said Act under which every debt of which a statement is not submitted to the Board in compliance with this notice shall be deemed for all purposes and all occasions to have been duly discharged.

3. The settlement in this case will take place at..... at 11 a.m. on the ..... day of ..... 193 , when you should appear before the Board.

Dated .....the..... day of ..... 193 .

(Seal of the Board.)

Signature of Chairman,
Debt Conciliation Board,
.....district.

FORM No. V

Monthly progress return for the month of.....193 of the Debt Conciliation Board,.....district.

[Rule 33 of the Berar Debt Conciliation Rules, 1934.]

Cases pending at the beginning of the month		Cases registered during the month		Cases disposed of during the month										Cases pending at close of month		Number of certificates issued under section 15 (1)			Average number of instalments allowed in conciliated cases	Multiple of rent or revenue for such instalment	Number of days on which the Board sat during the month
				Dismissed under section 7 (1)		Agreements executed under section 12 (1)						Cases dismissed under section 14									
Number	Amount involved	Number	Amount involved	Number	Amount involved	Number	Amount	Amount due to those who agree	Amount in agreement	Amount conciliated by transfer of land	Area of land transferred	Number	Amount	Number	Amount	Number of cases	Number of certificates	Amount due to creditor against whom certificate is granted			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)

FORM No. VI

Form of Certificate under section 13 (2) of the Central Provinces Debt Conciliation Act, 1933, as applied to Berar

[*Rule 43 of the Berar Debt Conciliation Rules, 1934.*]

This is to certify that every reasonable effort was made by me or under my orders to recover the arrears of the amount due from .....of.....to..... of... ..... under agreement No..... registered at.....to ..... by the Chairman of the Debt Conciliation Board, ... The amount of the arrear recovered is Rs..... and the irrecoverable balance is Rs.....

Dated.....the .....day of.....193.

(Seal of Deputy Commissioner.)

Signature of the Deputy Commissioner,
.....district.

FORM No. VII

Form of Certificate under section 15 (1) of the Central Provinces Debt Conciliation Act, 1933, as applied to Berar

[*Rule 44 of the Berar Debt Conciliation Rules, 1934.*]

This is to certify that during proceedings No..... of... .....under the Central Provinces Debt Conciliation Act, 1933, as applied to Berar, between.....of..... (debtor) on one hand and.....of..... (creditor) on the other hand for the settlement of an alleged debt of Rs..... the said creditor has, in our opinion, refused a fair offer of settlement made by the said debtor, which the said creditor ought reasonably to have accepted.

2. The following particulars of the debt were furnished by the said creditor under section 8 (1) of the Act.

[*Particulars.*]

Dated.....the.....day of.....193.

(Seal of the Board.)

Signature of Chairman,
Debt Conciliation Board,
.....district.

USURIOUS LOANS ACT No. X OF 1918

An Act to give additional powers to Courts to deal in certain cases with usurious loans of money or in kind.

WHEREAS it is expedient to give additional powers to Courts to deal in certain cases with usurious loans of money or in kind; It is hereby enacted as follows:—

Short title and extent.

1. (1) This Act may be called the Usurious Loans Act, 1918.

(2) It extends to the whole of British India, including British Baluchistan.

(3) The Local Government may, by notification in the local official gazette, direct that it shall not apply to any area, class of persons, or class of transactions which it may specify in its notification.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "Interest" means rate of interest and includes the return to be made over and above what was actually lent, whether the same is charged or sought to be recovered specifically by way of interest or otherwise.

(2) "Loan" means a loan whether of money or in kind and includes any transaction which is, in the opinion of the Court, in substance a loan.

(3) "Suit to which this Act applies" means any suit—

(*a*) for the recovery of a loan made after the commencement of this Act; or

(*b*) for the enforcement of any security taken or any agreement, whether by way of settlement of account or otherwise, made after the commencement of this Act, in respect of any loan made either before or after the commencement of this Act;

(*c*) for the redemption of any security given after the commencement of this Act in respect of any loan made either before or after the commencement of this Act.

*3. (1) Notwithstanding anything in the Usury Laws Repeal Act, 1855 (XXVIII of 1855), where, in any suit to which this Act applies, whether heard *ex parte* or otherwise, the Court has reason to believe—

(*a*) that the interest is excessive; or

(*b*) that the transaction was, as between the parties, thereto, substantially unfair,

the Court shall exercise all or any of the following powers, namely, shall—

(i) re-open the transaction, take an account between the parties, and relieve the debtor of all liability in respect of any excessive interest;

(ii) notwithstanding any agreement purporting to close previous dealings and to create a new obligation, reopen any account already taken between them and relieve the debtor of all liability in respect of any excessive interest, and if anything has been paid or allowed in account in respect of such liability, order the creditor to repay any sum which it considers to be repayable in respect thereof;

(iii) set aside either wholly or in part or revise or alter any security given or agreement made in respect of any loan, and if the creditor has parted with the security, order him to indemnify the debtor in such manner and to such extent as it may deem just:

Provided that, in the exercise of these powers, the Court shall not—

(i) re-open any agreement purporting to close previous dealings and to create a new obligation which has been entered into by the parties or any persons from whom they claim at a date more than twelve years from the date of the transaction;

(ii) do anything which affects any decree of a Court.

Explanation.—In the case of a suit brought on a series of transactions the expression "the transaction" means, for the purpose of proviso (i), the first of such transaction.

(2) (*a*) In this section "excessive" means in excess of that which the Court deems to be reasonable having regard to the risk incurred as it appeared, or must be taken to have appeared, to the creditor at the date of the loan:

(i) Provided that compound interest in excess of ten per cent on any loan made after such date, as the Local Government may, by notification, fix, shall be deemed to be excessive:

(ii) Provided further that, where in any suit the Court finds that the rate of interest exceeds twelve per cent per annum in the case of a secured loan or eighteen per cent per annum in the case of an unsecured loan or that there is a stipulation for rests at intervals of

*As amended by section 2 of the Usurious Loans (Central Provinces Amendment) Act, 1934 (XI of 1934), which came into force on the 15th June 1934.

less than six months, it shall, until the contrary is proved, presume that such rate is excessive, but this provision shall be without prejudice to the powers of the Court under sub-section (1) where the Court is satisfied that the interest charged, though not exceeding twelve per cent per annum or eighteen per cent per annum, as the case may be, is excessive.

(*b*) In considering whether interest is excessive under this section, the Court shall take into account any amounts charged or paid whether in money or in kind, for expenses, inquiries, fines, bonuses, premia, renewals or any other charges, and if compound interest is charged the periods at which it is calculated and the total advantage which may reasonably be taken to have been expected from the transaction.

(*c*) In considering the question of risk, the Court shall take into account the presence or absence of security and the value thereof, the financial condition of the debtor and the result of any previous transactions of the debtor, by way of loan, so far as the same were known, or must be taken to have been known, to the creditor.

(*d*) In considering whether a transaction was substantially unfair, the Court shall take into account all circumstances materially affecting the relations of the parties at the time of the loan or tending to show that the transaction was unfair, including the necessities or supposed necessities of the debtor at the time of the loan so far as the same were known, or must be taken to have been known, to the creditor.

Explanation.—Interest may of itself be sufficient evidence that the transaction was substantially unfair.

(3) This section shall apply to any suit, whatever its form may be, if such suit is substantially one for the recovery of a loan or for the enforcement of any agreement or security in respect of a loan or for the redemption of any such security.

(4) Nothing in this section shall affect the rights of any transferee for value who satisfies the Court that the transfer to him was *bona fide*, and that he had at the time of such transfer no notice of any fact which would have entitled the debtor as against the lender to relief under this section.

For the purposes of this sub-section, the word "notice" shall have the same meaning as is ascribed to it in section 4 of the Transfer of Property Act, 1882 (IV of 1882).

(5) Nothing in this section shall be construed as derogating from the existing powers or jurisdiction of any Court.

Insolvency proceedings.

4. On any application relating to the admission or amount of a proof of a loan in any insolvency proceedings, the Court may exercise the like powers as may be exercised under section 3 by a Court in a suit to which this Act applies.

COMMERCE AND INDUSTRY DEPARTMENT

Pachmarhi, the 29th May 1936.

No. 1060-836-XIII.—In exercise of the powers conferred by proviso (i) to clause (*a*) of sub-section (2) of section 3 of the Usurious Loans Act, 1918 (X of 1918), as amended by the Usurious Loans (Central Provinces Amendment) Act, 1934 (I of 1934), the Governor in Council is pleased to direct that compound interest in excess of ten per cent on any loan made after the 14th June 1934 shall be deemed to be excessive.

THE CENTRAL PROVINCES MONEYLENDERS ACT, 1934 (XIII OF 1934), AND RULES MADE THEREUNDER

EXPLANATORY NOTE

The Act in the main is an educative one, the chief object being to protect the debtor from the consequences of his own ignorance. It is not intended exclusively for the benefit of the debtors belonging to the agriculturist class but the intention is that the greatest benefit from it should be derived by them. With his account periodically before him, the debtor will be more alert to the growth of his liabilities and will have an opportunity of taking stock of his position from time to time. The provisions are simple to follow and have been framed with a view to enable even the pettiest moneylender to adapt his methods of accounting to them.

2. Under section 3 (1) of the Act, the money-lender has to maintain the account of each debtor separately in the usual way in which he has been keeping it, and to send to the debtor regularly every year at the time when accounts are usually closed for that year, a statement in the form given in the schedule attached to the rules framed under the Act, in the court language of the district, showing separately the various transactions entered into during the period and also the interest on each loan advanced to him separately. Government has after ascertaining the time when accounts are closed, laid down in rule 10 the time when such statements should be sent to debtors. The Act does not make it obligatory for the debtor to admit or deny the accuracy of the accounts. In order that the object of the Act should be fulfilled, it is essential that the debtor should study the statements sent to him by the creditor or have them explained to him.

3. The provisions of sections 3, 4, 5 and 6 do not apply to loans advanced before the Act came into force. But if any transaction in respect of such a loan is entered into after such date the provisions will apply to that transaction. The act also makes the rule of "damdupat" applicable in a modified form and empowers Courts to direct payment of decretal amount by instalments.

CENTRAL PROVINCES MONEYLENDERS ACT, 1934 (XIII OF 1934)

[This Act has also been applied to Berar and came into force on the 1st April 1935].

An Act to regulate the transactions of moneylending in the Central Provinces.

Preamble.

WHEREAS it is expedient to make better provision for the regulation and control of the transactions of moneylending;

AND WHEREAS the previous sanction of the Governor General, required under sub-section (3) of section 80-A of the Government of India Act, has been obtained to the passing of this Act;

It is hereby enacted as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Central Provinces Moneylenders Act, 1934.

(2) It extends to the whole of the Central Provinces.

(3) It shall come into force on such date as the Local Government may, by notification, direct.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(i) "bank" means a company carrying on the business of banking and registered under any of the enactments relating to companies for the time being in force in the United Kingdom or in any of the Colonies or Dependencies thereof, or in British India, or incorporated by an Act of Parliament, or by Royal Charter or Letters Patent or by any Act of the Indian Legislature;

(ii) "company" means a company registered under any of the enactments relating to companies for the time being in force in the United Kingdom or any of the Colonies or Dependencies thereof, or in British India, or incorporated by an Act of Parliament, or by Royal Charter or Letters Patent and includes Life Assurance Companies to which the Indian Life Assurance Companies Act, 1912 (VI of 1912), applies;

(iii) "co-operative society" means a society registered under the Co-operative Societies Act, 1912 (II of 1912);

(iv) "court" includes a court acting in the exercise of insolvency jurisdiction;

(v) "moneylender" means a person who, in the regular course of business, advances a loan as defined in this Act and shall include, subject to the provisions of section 3, the legal representatives and the successors in interest whether by inheritance, assignment or otherwise of the person who advanced the loan;

(vi) "interest" includes the return to be made over and above what was actually lent whether the same is charged or sought to be recovered specifically by way of interest or otherwise;

(vii) "loan" means an advance whether of money or in kind at interest and shall include any transaction, which the court finds to be in substance a loan, but it shall not include—

(*a*) a deposit of money or other property in a Government post office bank or any other bank or in a company or with a co-operative society;

(*b*) a loan to or by or a deposit with any society or association registered under the Societies' Registration Act, 1860 (XXI of 1860), or under any other enactment,

(*c*) a loan advanced by Government or by any local authority authorized by Government,

(*d*) a loan advanced by a bank, a co-operative society or a company whose accounts are subject to audit by a certified auditor under the Companies Act, 1913 (VII of 1913),

(*e*) an advance made on the basis of a negotiable instrument, as defined in the Negotiable Instruments Act, 1881 (XXVI of 1881), other than a promissory note,

*[(*f*) a transaction which is in substance a charge on, or a sale of immovable property;]

(*g*) a loan advanced to an agricultural labourer by his employer;

(viii) "prescribed" means prescribed by rules made under this Act.

Maintenance of accounts by moneylender and supply of statements thereof to debtors.

3. (1) Every moneylender shall—

(*a*) regularly maintain an account for each debtor separately of all transactions in respect of any loan advanced to that debtor;

(*b*) furnish such debtor every year with a legible statement of accounts signed by the moneylender or his agent of any balance or amount that may be outstanding against such debtor on such dates and in

*As amended by the C. P Moneylenders (Amendment) Act, 1937 (XIX of 1937) and also C. P. Moneylenders (Amendment) Act, 1937 (XXIV of 1937).

such areas as may be prescribed. Such statement of accounts shall include all transactions in respect of the loan entered into during the year to which the statement relates and shall be furnished, in the court language of the district in which the debtor resides, and in such manner, in such form, containing such details and on such date as may be prescribed.

(2) The account required under clause (*a*) of sub-section (1) shall be so maintained that items due by way of interest shall be shown as separate and distinct from the principal sum and separate totals of principal and interest shall be shown. The moneylender shall not, in the absence of agreement, include the interest or any portion of it in the principal sum, and the principal and interest shall be separately shown in the opening balance of each new annual account:

Provided that—

(i) if the loan has, since it was originally advanced, passed by inheritance or assignment to a widow or a minor, such widow or minor shall not be bound to maintain and furnish the account under sub-section (1) for a period of two years from the date of such passing;

(ii) nothing in this section shall be deemed to lay upon any person the duty of maintaining and furnishing the account under sub-section (1) in the case of a loan wherein the title to recover is *sub judice* between two or more persons claiming as moneylenders adversely to each other unless and until the title has been finally decided by a court of competent jurisdiction.

Evidential value of copies of accounts.

4. Copies of entries in the account required to be maintained under clause (*a*) of sub-section (1) of section 3, when certified in such manner as may be prescribed, shall be admissible in evidence for any purpose in the same manner and to the same extent as the original entries.

Debtors not bound to admit correctness of accounts supplied.

5. A debtor to whom a statement of accounts has been furnished under clause (*b*) of sub-section (1) of section 3 shall not be bound to acknowledge or deny its correctness and his failure to protest shall not by itself be deemed to be an admission of the correctness of the account.

Receipt of repayment of loan.

6. Every money lender, who receives repayment from his debtor on account of any loan advanced to him, shall forthwith give a receipt therefor.

Procedure of court in suits regarding loans.

7. Notwithstanding anything contained in any other enactment for the time being in force, in any suit or proceeding relating to a loan—

(*a*) the court shall, before deciding the claim on the merits, frame and decide the issue whether the moneylender has complied with the provisions of clauses (*a*) and (*b*) of sub-section (1) of section 3;

(*b*) if the court finds that the provisions of clause (*a*) of sub-section (1) of section 3 or of section 6 have not been complied with by the moneylender, it shall, if the plaintiff's claim is established in whole or in part, disallow the whole or any portion of the interest found due, as may seem reasonable to it in the circumstances of the case and may disallow costs; and

(*c*) if the court finds that the provisions of clause (*b*) of sub-section (1) of section 3 have not been complied with by the moneylender, it shall, in computing the amount of interest due upon the loan, exclude every period for which the moneylender omitted duly to furnish the account as required by that clause:

Provided that if the moneylender has, after the time prescribed in that clause, furnished the account and the plaintiff satisfies the court that he had sufficient cause for not furnishing it earlier, the court may, notwithstanding such omissions, include any such period or periods for the purpose of computing the interest.

Explanation.—A moneylender who has maintained his account and furnished his annual statements of accounts in the prescribed form and manner shall be held to have complied with the provisions of clauses (*a*) and (*b*) of sub-section (1) of section 3 in spite of any errors and omissions, if the court finds that such errors and omissions are accidental and not material and that the accounts have been kept in good faith with the intention of complying with the provisions of those clauses.

8. The provisions of sections 3, 4, 5, 6 and 7 shall not apply to any loan made before this Act comes into force:

Provided that, if any fresh transaction in respect of a loan made before this Act comes into force is made after this Act comes into force, such transaction shall be subject to the provisions of those sections.

Power of Court to limit interest recoverable in certain cases.

*[9. Notwithstanding anything contained in any other enactment for the time being in force, no court original or appellate shall decree, in respect of any loan made before this Act comes into force, on account of arrears of interest, a sum greater than the principal of such loan, unless it is satisfied that the moneylender has reasonable grounds for not enforcing his claim earlier.]

*As amended by the Central Provinces Moneylenders (Amendment) Act, 1937 (XXIV of 1937).

Power of court to limit interest to the extent of principal of loan.

10. No court shall, in respect of any loan made after this Act comes into force, decree on account of arrears of interest a sum greater than the principal of the loan.

Power to direct payment of decretal amount by instalments

11. The court may, at any time on the application of a judgment-debtor, after notice to the decree-holder, direct that the amount of any decree passed against him, whether before or after this Act comes into force, in respect of a loan shall be paid in such number of instalments and subject to such conditions on the dates fixed by it as, having regard to the circumstances of the judgment-debtor and the amount of the decree, it considers fit. During the pendency of an inquiry under this section, the court may order the stay of execution of the decree subject to such conditions as it may impose. Such order shall be deemed to have been passed under section 47 of the Code of Civil Procedure, 1908 (V of 1908).

Power to make rules.

12. (1) All rules for which provision is made in this Act shall be made by the Local Government and shall be consistent with this Act.

(2) All rules shall be subject to the condition of previous publication.

(3) In particular and without prejudice to the generality of the foregoing power, the Local Government may make rules prescribing—

(*a*) the manner and form with numerals in which statements of accounts shall be furnished and the details to be given in such statement under clause (*b*) of sub-section (1) of section 3; and

(*b*) the manner in which copies of entries in the account shall be certified under section 4.

RULES UNDER THE CENTRAL PROVINCES MONEYLENDERS ACT, 1934 (ACT XIII OF 1934)

Government has framed the following rules under sub-sections (1) and (3) of section 12 of the Central Provinces Moneylenders Act, 1934 (XIII of 1934). The rules are intended both for the Central Provinces and Berar :—

1. These rules may be called the "Moneylenders Accounts Rules".

2. They shall come into force on the 1st April 1935.

3. In these rules, unless there is anything repugnant in the subject or context, "the Act" means the Central Provinces Moneylenders Act, 1934.

4. The statement of accounts prescribed in clause (*b*) of sub-section (1) of section 3 of the Act shall be furnished to the debtor in the court language of the district, in the form shown in the schedule hereto annexed.

NOTE.—Government does not assume any responsibility for supplying to creditors the forms they may require and each creditor should make his own arrangements for obtaining such forms as he may require, to enable him to send the statement of accounts to his debtor in due time.

5. The numerals to be used for the purpose of making entries in the statement shall be the same as those ordinarily used with the particular language employed.

6. The name and address of the debtor, and, in the case of joint-debtors, of each joint-debtor, shall be entered at the head of the account maintained by the creditor in accordance with sub-section (1) of section 3 of the Act.

7. In column 1 of the account will be shown so far as is possible the exact date on which the transaction took place.

8. The rate of interest as agreed on by the parties for each advance, whether in cash or kind, shall be shown in words in the column provided for the purpose in the form prescribed.

9. The value of repayments in kind and the amount appropriated from all repayments to principal and interest separately, shall be shown in the column provided in the prescribed form, on the date on which the transaction actually took place.

10. The statement shall be sent to the debtor within one month of the date or time specified below according to the area in which he resides :—

Area	Date or time	
Nagpur civil district	.. Divali (for cash accounts).	Vaishakh Badi 30 (for grain accounts).
Wardha civil district	.. Do.	do.
Jubbulpore civil district	.. Do.	do.
Hoshangabad civil district	.. Do.	do.
Chhindwara civil district	.. Do.	do.
Nimar civil district	.. Do.	do.
Raipur civil district	.. Do.	do.
East Berar civil district	.. Do.	do.
West Berar civil district	.. Do.	do.

11. Every statement shall be prepared and maintained in duplicate; one copy shall be retained by the creditor and one copy sent to the debtor in accordance with rule 10 and in the manner hereafter prescribed.

12. Entries in the statement relating to the amount and date of the loan, and the rate of interest, the appropriation of repayments, etc., shall tally with the entries made in the accounts maintained by the creditor in accordance with the provisions of the Act.

13. (*a*) One copy of the statement of accounts shall be sent to the debtor at his cost in accordance with the provisions of rule 11, by sending it by post to the address entered at the head of the account in accordance with rule 6 and the creditor shall, at the time of posting, obtain a certificate of posting it:

Provided that if the debtor or joint-debtors, as the case may be, agreed in writing to accept the statement of accounts by personal delivery, it shall not be necessary to send it by post.

(*b*) Where there are two or more joint-debtors the statement of account shall, in the absence of any contract to the contrary, be furnished to the joint-debtor who signs first in the document relating to the loan in question.

(*c*) If the debtor accepts the statement of accounts when delivered to him in person, he shall give an acknowledgment of its receipt on a separate sheet of paper. This acknowledgment shall bear the debtor's signature or thumb impression.

14. Certified copies of the entries in the account shall be admissible in evidence for any purpose in the same manner and to the same extent as the original entries, only when they bear a certificate, dated and countersigned by some person who has examined and compared the copy with the original, to the effect that "the copy is a true copy of the account as maintained by the creditor and communicated to the debtor under the provisions of the Act".

The Schedule above referred to

Loan Account of ..... *son of*..... *caste* ..... *residence*.....

Opening balance (if any) .....

Principal .....

Interest .....

JAMA							NAMA						
Date	Particulars of repayment, whether cash or kind, in words	Repayment figures		Appropriation		Remarks	Date	Particulars of advance in words whether cash or kind	Advance in figures		Rate of interest	Amount of interest charged	Remarks
		Cash	Kind (number and weight)	Principal	Interest				Cash	Kind (number and weight)			

Principal ..... Interest ..... Balance outstanding on..... .....19 .

Add opening balance as above ...

Total ...

(Signature) Creditor or Agent.

THE CENTRAL PROVINCES MONEYLENDERS (AMENDMENT) ACT, 1936 (XIII OF 1936)

[This Act came into force on the 1st October 1936]

Preamble.

WHEREAS it is expedient to amend the Central Provinces Moneylenders Act, 1934 (XIII of 1934), in the manner hereinafter appearing;

AND WHEREAS the previous sanction of the Governor General, required under sub-section (3) of section 80-A of the Government of India Act, has been obtained to the passing of this Act;

It is hereby enacted as follows:—

Short title, commencement and duration.

1. (1) This Act may be called the Central Provinces Moneylenders (Amendment) Act, 1936.

(2) It shall come into force on such date as the Local Government may, by notification, appoint in this behalf and shall remain in force for four years from that date.

2. After clause (viii) of section 2 of the Central Provinces Moneylenders Act, 1934 (XIII of 1934), (hereinafter referred to as the said Act), the following clause shall be inserted, namely:—

"(ix) 'Sub-Registrar' means a Sub-Registrar appointed under the Indian Registration Act, 1908 (XVI of 1908)."

3. After section 11 of the said Act, the following sections shall be inserted, namely:—

Register of moneylenders.

"11-A. (1) Every Sub-Registrar shall maintain a register of moneylenders in such form and containing such particulars as may be prescribed.

(2) Such register shall be deemed to be a public document within the meaning of the Indian Evidence Act, 1872 (I of 1872).

Registration of moneylenders and registration certificate.

11-B. (1) Every moneylender shall register himself as a moneylender by an application made to the Sub-Registrar of any sub-district of the district or districts in which the principal place of business of such moneylender or a branch thereof is situate and, on such registration, the Sub-Registrar shall grant a registration certificate to the moneylender in such form as may be prescribed.

(2) Every application made under sub-section (1) shall be in writing and shall contain such particulars as may be prescribed.

Registration fee.

11-C. Any person who makes an application for registration under section 11-B shall pay such registration fee, not exceeding eighteen rupees, as may be prescribed for the district in which it is granted and such fee shall be payable by means of court-fee stamps affixed to the application :

Provided that the Local Government may, by notification, exempt any class of persons from the payment of the registration fee either generally or for any specified area.

Duration of registration certificate.

11-D. A registration certificate granted under section 11-B shall be in force for four years from the date of the registration.

Bar to carry out business without registration certificate.

11-E. (1) No moneylender shall, after the expiration of three months from the date on which this section is brought into force, carry on his business as moneylender in any district without obtaining a registration certificate under section 11-B for such district.

Penalty.

(2) Whoever contravenes the provision of sub-section (1) shall be punishable with fine which may extend to fifty rupees, or, if he has previously been convicted of an offence under that sub-section, with fine which may extend to one hundred rupees.

Composition of offences.

11-F. (1) The Deputy Commissioner may accept from any person who has committed an offence against sub-section (1) of section 11-E a sum of money not exceeding one hundred rupees by way of composition for such offence.

(2) On payment of such sum of money, the person who has committed an offence, if in custody, shall be discharged, and no further proceedings shall be taken against him in regard to the offence so compounded."

4. After clause (*b*) of sub-section (3) of section 12 of the said Act, the following clauses shall be inserted, namely :—

"(*c*) the form and particulars of a register under section 11-A,

(*d*) the form of registration certificate under section 11-B (1),

(*e*) the particulars of an application under section 11-B (2), and

(*f*) the registration fee under section 11-C."

RULES

Government has framed the following further rules under sub-sections (1) and (3) of section 12 of the Central Provinces Moneylenders Act, 1934 (XIII of 1934). These are intended for both the Central Provinces and Berar:—

1. These rules shall be called the Moneylenders Registration Rules, 1936.

2. They shall come into force on the 1st October 1936.

3. In these rules, unless there is anything repugnant to the subject or context,—

(*a*) "Sub-Registrar" means the Sub-Registrar of the registration sub-district in which the principal place of business of such moneylender or a branch thereof is situate;

(*b*) "moneylender" means a moneylender, as defined in section 2 of the Central Provinces Moneylenders Act, 1934 (XIII of 1934);

(*c*) "authorized agent" means an agent appointed under a power-of-attorney.

4. The register of moneylenders prescribed by section 11-A (1) of the Act shall be maintained in Form No. I of the Schedule.

5. The application prescribed by section 11-B (2) of the Act shall be in Form No. II of the Schedule.

6. The certificate of registration prescribed by section 11-B (1) of the Act shall be in Form No. III of the Schedule.

7. The application prescribed in rule 5 shall be presented to the Sub-Registrar either by the moneylender $\frac{\text{himself}}{\text{herself}}$ or by $\frac{\text{his}}{\text{her}}$ authorized agent.

8. On the presentation of an application in the prescribed form, the Sub-Registrar shall forthwith endorse on it the date of its presentation and if it is in order, shall require the presenter to pay the fee prescribed by rule 13 in court-fee stamps. These shall be affixed to the application and shall be duly punched and cancelled by the Sub-Registrar who shall put his initials and the date across each court-fee label. If the fee is not paid on the date on which the application is presented, another date shall be fixed for the payment of the fee.

9. If the application is not in order, it shall be returned by the Sub-Registrar to the presenter for fresh presentation in the proper form.

10. If the application is in order and the fee prescribed by rule 13 has been paid, the Sub-Registrar shall make necessary entries in the register prescribed by rule 4 and shall grant a registration certificate to the moneylender or his authorized agent.

11. The application shall, on disposal, be given a serial number and filed serially in a separate book maintained for the purpose. The applications will be retained for six years after which they will, with the previous order of the District Registrar, be destroyed.

12. An alphabetical index of the names of all moneylenders registered under the Act shall be maintained separately by every Sub-Registrar in the form prescribed for index Nos. I and IV by rules made under the Indian Registration Act, 1908, and entries made therein by the Sub-Registrar immediately after the grant of the registration certificate to the moneylender. This alphabetical index shall be kept in the register of moneylenders.

13. The registration fee shall be Rs. 18 (rupees eighteen) for all the districts in the Central Provinces and Berar.

The Schedule above referred to

FORM No. I

REGISTER OF MONEYLENDERS [SECTION 11-A(1)].

Office of the Sub-Registrar of .....sub-district, ... district.

Serial No.	Name of money-lender	Caste or religion	Resi-dence	Date of registra-tion	The value of court-fee stamps affixed to the appli-cation as registra-tion fee.	If exempt-ed from fees, the reasons for exemption	Serial No. of applica-tion	Remarks	Signa-of Sub-Registrar
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)

NOTES.—(1) In the case of a moneylending firm or company, column 2 should show the names of both the firm or company and the existing owner or owners or proprietors thereof.

(2) Column 2 should also show the father's name and surname, if any, of the moneylender.

(3) Column 4 should, in the case of cities and towns, furnish the exact address of the moneylender, mentioning the locality or suburb or the municipal circle or ward number, etc., and in the case of villages, giving the name of the tahsil or taluq.

(4) Column 5 should also give the month and year of the British Calendar.

(5) Column 9 should show the actual place of carrying on the moneylending business and also whether it is the "principal place of business" or a mere "branch" thereof.

FORM No. II

FORM OF APPLICATION [SECTION 11-B (2)].

To

The Sub-Registrar,

_____ sub-district,
_____ taluq,
_____ district.

I, the undersigned, request that I may kindly be registered as a moneylender under section 11-B (1) of the Central Provinces Moneylenders (Amendment) Act, 1936 (XIII of 1936). I am prepared to pay the fee prescribed by the Local Government, in that behalf, in the shape of court-fee stamps.

I reside at ——, taluq ——, district ——, where $\frac{\text{the principal place}}{\text{a branch}}$ of my moneylending business is situated. My $\frac{\text{religion}}{\text{caste}}$ is _____

Dated _____ 193 .

Place _____

Signature or thumb mark
of the moneylender
or his authorized agent.

FORM No. III

CERTIFICATE OF REGISTRATION [SECTION 11-B (1)].

I hereby certify that _____ $\frac{\text{son}}{\text{widow}}$ _____

caste (or religion) _____, resident of _____ taluq _____, district _____, has been registered as a moneylender under section 11-B (1) of the Central Provinces Moneylenders (Amendment) Act, 1936 (XIII of 1936), for the _____ district, on this _____ day of _____ 19 .

_____ *Sub-Registrar,*
_____ *sub-district,*
district.

NOTE SHOWING THE SCOPE OF THE CENTRAL PROVINCES ADJUSTMENT AND LIQUIDATION OF INDUSTRIAL WORKERS' DEBT ACT, 1936 (V OF 1936)

The Royal Commission on labour recommended special legislation providing a summary procedure for the liquidation of workers' unsecured debts. The object of the Act is to give effect to that recommendation. It follows the lines of the Provincial Insolvency Act, 1920 (V of 1920), with special provisions for the scaling down of debts, limitation of total liability to the assets, *plus* the amount payable from the income within three years after allowing for the maintenance of the workers and his dependants, and wider discretion to the courts in determining priority of debts for the distribution of assets and surplus income. The Act is an enabling measure and the relief it contemplates is restricted to industrial workers whose average monthly income does not exceed fifty rupees. The Act was passed on the 23rd January 1936 and came into force in the following areas on the 1st January 1937 :—

Central Provinces.

(1) Nagpur city.
(2) Wardha, Pulgaon and Hinganghat towns in the Wardha district.
(3) Jubbulpore town.
(4) Burhanpur town in the Nimar district.

Berar.

(5) Akola town in the Akola district.
(6) Badnera and Ellichpur towns in the Amraoti district.

THE CENTRAL PROVINCES ADJUSTMENT AND LIQUIDATION OF INDUSTRIAL WORKERS' DEBT ACT, 1936 (V OF 1936)

CONTENTS

Preamble.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.
3. Presentation of liquidation petition.
4. Bar for entertainment of petition under the Provincial Insolvency Act, 1920.
5. Verification of liquidation petition.
6. Court to which liquidation petition may be presented.
7. Contents of liquidation petition.
8. Procedure for admission of liquidation petitions.
9. Procedure on admission of liquidation petitions.
10. Prohibition to apply for arrest of industrial worker and power of court to release industrial worker.
11. Procedure at hearing of liquidation petitions.
12. Power and procedure of court.
13. Abatement of proceedings on death of petitioner.
14. Dismissal of liquidation petition.
15. Order of adjudication and appointment of receiver.
16. Effect of order of adjudication.
17. Avoidance of voluntary transfer.
18. Avoidance of preference to certain creditors over other creditors.
19. Debts adjustable.
20. Determination of petitioner's debts.
21. Schedule of determined debts.
22. Procedure after determination of debts.
23. Encumbered industrial worker.
24. Realization of debts of encumbered industrial worker.
25. Making over proceeds of assets to secured creditor.
26. Distribution of proceeds of assets to creditors in order of priority and assignment of shares of surplus.
27. Execution of order under section 26 as decree of court of small causes.
28. Sums exempt from interest.
29. Recovery of debt due by encumbered industrial worker.
30. Bar of recovery of debt of industrial worker.
31. Cessation of industrial worker as encumbered industrial worker.
32. Display of lists of petitioners and encumbered industrial workers.
33. Concealment of any debt by industrial worker.
34. Power of court to cancel proceedings.
35. Appeal.
36. Limitation.
37. Penalty.
38. Penalty to encumbered industrial worker for obtaining credit.
39. Power to make rules.

THE CENTRAL PROVINCES ADJUSTMENT AND LIQUIDATION OF INDUSTRIAL WORKERS DEBT ACT, 1936 (V OF 1936)

An Act to provide for the adjustment and liquidation of the debts of industrial workers.

Preamble.

WHEREAS it is expedient to provide for the adjustment and liquidation of the debts of industrial workers;

AND WHEREAS the previous sanction of the Governor-General required by sub-section (3) of section 80-A of the Government of India Act has been obtained to the passing of this Act;

It is hereby enacted as follows :—

Short title.

1. (1) This Act may be called the Central Provinces Adjustment and Liquidation of Industrial Workers' Debt Act, 1936.

Extent.

(2) It extends to the whole of the Central Provinces.

Commencement.

(3) This section shall come into force at once and the remaining provisions of this Act shall come into force in such local area and on such date as the local Government may, by notification, direct.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(i) "assets" means all property owned by a person which could be attached under the Civil Procedure Code, 1908 (V of 1908), in execution of a decree and, except where the context indicates otherwise, includes any sum realized by a court under this Act from the sale of any such property;

(ii) "adjusted debt" means the sum shown against the name of any creditor in the schedule prepared under section 21;

(iii) "average income" means the average monthly income of an industrial worker calculated on his total income from all sources during a period of twelve months preceding the month of the presentation of a liquidation petition under this Act;

(iv) "court" means the principal civil court of original jurisdiction and shall include a civil court specifically empowered by notification in this behalf by the local Government;

(v) "creditor" includes a decree-holder, "debt" includes a judgment-debt and "debtor" includes a judgment-debtor;

(vi) "dependant", in relation to an industrial worker means any of the following relatives, namely:—

(*a*) a wife, minor legitimate son and unmarried legitimate daughter, or a widowed mother; and

(*b*) if, during a period of twelve months, preceding the month of the presentation of a liquidation petition, entirely dependant on the earnings of the industrial worker, a husband, a parent other than a widowed mother, a minor illegitimate son, an unmarried illegitimate daughter, a daughter legitimate or illegitimate if married and a minor or if widowed, a minor brother, an unmarried or widowed sister, a widowed daughter-in-law, a minor child of a deceased son, or, where no parent of the industrial worker is alive, a paternal grandparent;

(vii) "factory" means a factory as defined in the Factories Act, 1934 (XXV of 1934);

(viii) "industrial establishment" means any establishment which the local Government may, by notification, declare as an industrial establishment;

(ix) "industrial worker" means a person who is employed either by way of manual labour or on monthly wages in a factory, mine or industrial establishment and whose average income does not exceed fifty rupees, but shall not include a person who is employed for doing clerical work;

(x) "mine" means a mine as defined in the Indian Mines Act, 1923 (IV of 1923);

(xi) "prescribed" means prescribed by rules made under this Act;

(xii) "property" includes any property over which or the profits of which any person has a disposing power which he may exercise for his own benefit;

(xiii) "secured debt" means a debt due to a creditor from his debtor for which the creditor holds a mortgage, charge or lien on the property of the debtor or any part thereof as security for that debt;

(xiv) "surplus" means, in the case of industrial worker having—

(*a*) no dependant, twelve times his average income,

(*b*) one dependant, nine times his average income, and

(*c*) more than one dependant, six times his average income; and

(xv) other words and expressions shall have the meanings assigned to them in the Provincial Insolvency Act, 1920 (V of 1920).

Presentation of liquidation petition.

3. Any industrial worker may present a petition for the liquidation of his debts (hereinafter called a liquidation petition), if his debts exceed the aggregate value of his assets and three times his average income and if he was, on the date of the presentation of a liquidation petition, an industrial worker for a period of not less than one year preceding such date.

Bar for entertainment of petition under the Provincial Insolvency Act, 1920.

4. No court shall entertain a petition under the Provincial Insolvency Act, 1920 (V of 1920), to have an industrial worker adjudged an insolvent except where—

(i) such industrial worker is not entitled to present a liquidation petition under section 3, or

(ii) a liquidation petition presented by such industrial worker under section 3 has been dismissed under section 14 or the proceedings have been cancelled under section 34.

Verification of liquidation petition.

5. Every liquidation petition shall be in writing and shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1908 (V of 1908), for signing and verifying plaints.

Court to which liquidation petition may be presented.

6. Every liquidation petition shall be presented to the court having jurisdiction under this Act in any local area in which an industrial worker ordinarily resides or personally works for gain, or, if he has been arrested or imprisoned, where he is in custody.

Contents of liquidation petition.

7. Every liquidation petition shall contain the following particulars, namely:—

(*a*) a declaration that the petitioning industrial worker (hereinafter referred to as petitioner) is entitled to present a liquidation petition;

(*b*) a statement that he is willing but unable to pay his debts;

(*c*) the place where he ordinarily resides or personally works for gain or, if he has been arrested or imprisoned, the place where he is in custody;

(*d*) the court (if any) by whose order he has been arrested or imprisoned or by which an order has been made for the attachment of his property, together with particulars of the decree in respect of which any such order has been made;

(*e*) the amount and the particulars of all pecuniary claims against him, together with the names and residences of his creditors so far as they are known to, or can, by the exercise of reasonable care and diligence, be ascertained by him;

(*f*) the amount and particulars of all his property together with—

(i) a specification of the value of all such property not consisting of money;

(ii) the place or places at which such property is to be found; and

(iii) a declaration of his willingness to place at the disposal of the court all such property save in so far as it includes such particulars as are exempted by the Code of Civil Procedure, 1908 (V of 1908), or by any other enactment for the time being in force from liability to attachment and sale in execution of a decree;

(*g*) a statement showing the number of his dependants and his average income; and

(*h*) a statement whether the petitioner has on any previous occasion filed a liquidation petition and, where such a petition has been filed,—

(i) if such petition has been dismissed under section 14 or the proceedings have been cancelled under section 34, the reasons for such dismissal or cancellation,

(ii) if such petition has been allowed, concise particulars of the debts liquidated, including a statement whether any previous liquidation has been cancelled and, if so, the grounds therefor.

Procedure for admission of liquidation petitions.

8. The procedure laid down in the Code of Civil Procedure, 1908 (V of 1908), with respect to the admission of plaints shall, so far as it is applicable, be followed in the case of liquidation petitions under this Act.

Procedure on admission of liquidation petitions.

9. (1) Where a liquidation petition has been admitted, the court shall make an order fixing a date for hearing the petition.

(2) Notice of the order under sub-section (1) shall be given to the creditors of the petitioner in such manner as may be prescribed.

Prohibition to apply for arrest of industrial worker and power of court to release industrial worker.

10. A creditor, who has received notice of a liquidation petition presented by an industrial worker, shall not be entitled, from the date of the service of such notice, to apply to any court for the arrest of the petitioner in any suit or proceeding for the recovery of any debt proposed to be liquidated under the liquidation petition and if such petitioner is under arrest or imprisonment in execution of a decree of any court, the court making the order admitting the petition shall, notwithstanding anything contained in any other enactment for the time being in force, order his release on such term as to security as may be reasonable and necessary.

Procedure at hearing of liquidation petitions.

11. (1) On the day fixed for the hearing of a liquidation petition or on any subsequent day to which the hearing may be adjourned, the court shall require proof that the petitioner is entitled to present the liquidation petition:

Provided that he shall, for the purpose of proving his inability to pay debts, be required to furnish only such proof as to satisfy the court that there are *prima facie* grounds for believing the same and the court, if and when so satisfied, shall not be bound to hear any further evidence thereon.

(2) The court shall also examine the petitioner, if he is present, as to his conduct, dealings and property in the presence of such creditors as appear at the hearing and the creditors shall have the right to question him thereon.

(3) The court shall, if sufficient cause is shown, grant time to the petitioner or any of his creditors to produce any evidence which appears to it to be necessary for the proper disposal of the petition.

(4) A memorandum of the substance of the examination of the petitioner and of any other oral evidence given shall be made by the court and shall form part of the record of the case.

Power and procedure of court.

12. Subject to the provisions of this Act, the court shall have the same powers and shall follow the same procedure, so far as may be, as a court invested with jurisdiction under the Provincial Insolvency Act, 1920 (V of 1920).

Abatement of proceedings on death of petitioner.

13. If an industrial worker who has presented a liquidation petition under this Act dies, the proceedings in the matter shall abate.

Dismissal of liquidation petition.

14. Where, for reasons to be recorded in writing, the court is not satisfied that a petitioner is entitled to present a petition under section 3, it shall dismiss the petition.

Order of adjudication and appointment of receiver.

15. If the court does not dismiss a liquidation petition, it shall make an order of adjudication, and may, at the same time or at any time afterwards, appoint a receiver for the property of the petitioner in accordance with the Code of Civil Procedure, 1908 (V of 1908).

Effect of order of adjudication.

16. (1) On the making of an order of adjudication, the whole of the assets of the petitioner shall vest in the court or in a receiver and thereafter no creditor to whom the petitioner is indebted in respect of any debt adjustable under this Act shall have any remedy against the assets of such petitioner in respect of his debt or commence any suit or other legal proceeding except with the leave of the court and on such terms as it may impose.

(2) All assets which are acquired by or devolve on the petitioner after the date of an order of adjudication and before his discharge shall forthwith vest in the court or receiver and the provisions of sub-section (1) shall apply in respect thereof.

(3) An order of adjudication shall relate back to, and take effect from, the date of the presentation of a liquidation petition on which it is made.

Avoidance of voluntary transfer.

17. Any transfer of his assets by an industrial worker not being a transfer made before and in consideration of marriage or made in favour of a purchaser or incumbrancer in good faith and for valuable consideration shall, if an order of adjudication is passed on a liquidation petition presented by him within two years after the date of the transfer, be voidable as against the receiver and may be annulled by the court.

Avoidance of preference to certain creditors over other creditors.

18. Every transfer of assets, every payment made, every obligation incurred, and every judicial proceeding taken or suffered by any industrial worker, who is unable to pay from his own money his debts as they become due in favour of any creditor, with the intention of giving that creditor a preference over other creditors, shall, if an order of adjudication is passed on a liquidation petition presented by him within three months after the date thereof, be deemed fraudulent and void as against the receiver and shall be annulled by the court.

Debts adjustable.

19. All debts, except those incapable of being fairly estimated or demands in the nature of unliquidated damages, shall be adjustable under this Act.

Determination of petitioner's debts.

20. (1) On making an order of adjudication, the court shall enquire into the amount of the petitioner's debts and may refuse to admit any debt shown by the petitioner or claimed by any creditor.

(2) In determining the amount of debts due, the court may exercise the powers conferred upon it by section 3 of the Usurious Loans Act, 1918 (X of 1918):

Provided that no court shall allow on account of arrears of interest, exclusive of such interest as has already been paid, a sum greater than the principal of the debt.

Schedule of determined debts.

21. After the court has determined the debts, it shall prepare a schedule in such form as may be prescribed showing—

(i) the amount of the debts so determined and the creditors to whom they are due;

(ii) the assets of the petitioner and their value as estimated by the court; and

(iii) the average income of the petitioner.

Procedure after determination of debts.

22. (1) If the adjusted debts of the petitioner do not exceed the sum of the assets and the surplus, the court shall read out to the parties present the adjusted debts and the names of the creditors to whom they are due and shall discharge the petitioner.

(2) After a petitioner is discharged under sub-section (1), no sum shall be recoverable in any court in respect of any debt then owed by him, with the exception of the adjusted debts and simple interest on such debts at a rate not exceeding six per cent per annum from the date of discharge.

(3) The entry of a debt in the schedule prepared under section 21 shall, in any civil proceeding, be conclusive proof that sum was due to that creditor from the petitioner at the date on which such schedule was signed by the court.

Encumbered industrial worker.

23. (1) If the total adjusted debts of a petitioner exceed the sum of his assets and the surplus, the court shall issue a declaration that the petitioner is an encumbered industrial worker.

(2) The court shall at the same time read out to the parties present the names of the creditors with the adjusted debts due to them and shall discharge the claims of those creditors to whom no debts have been found due on adjustment.

Realization of debts of encumbered industrial worker.

24. The court shall realize the assets of every petitioner in respect of whom a declaration has been issued, under sub-section (1) of section 23, that he is an encumbered industrial worker.

Making over proceeds of assets to secured creditors.

25. (1) After realizing the assets of an encumbered industrial worker under section 24, the court shall make over the proceeds of any assets on which, or any part of which, a creditor holds a mortgage, charge or lien to such creditor, up to the amount of the adjusted debts due to him from the encumbered industrial worker.

(2) If the amount realized under sub-section (1) is in any case insufficient to meet the adjusted debts due to the secured creditor, he shall rank in respect of the remainder of the debts due to him as an unsecured creditor.

Distribution of proceeds of assets to creditors in order of priority and assignment of shares of surplus.

26. (1) After taking any action required by section 25, the court shall distribute the proceeds of the assets available for the unsecured creditors to those creditors in proportion to the adjusted debts due to them and shall make an order in such form as may be prescribed assigning a share of the surplus, not exceeding one thirty-sixth of the surplus in any one month payable on the specified dates to the creditors in order of priority.

(2) In determining the order of priority among the creditors, the court shall have regard to the date of incurring the debts, the purposes for which they were incurred and any other circumstances which it regards as conferring a claim to priority.

Execution of order under section 26 as decree of Court of Small Causes.

27. Every creditor whose claim has not been discharged shall be supplied with a copy of the order made under subsection (1) of section 26 and such order may be executed by that creditor in any appropriate civil court in respect of any share of the surplus assigned to him as though it were the decree of a Court of Small Causes bearing the date of the order:

Provided that it shall not be necessary to certify payment through the court until the judgment-debtor has had notice of execution:

Provided further that no such order shall be capable of execution more than three years after the date of the order.

Sums exempt from interest.

28. Sums due under an order issued under section 26 shall carry no further interest.

Recovery of debt due by encumbered industrial worker.

29. No sum shall be recoverable otherwise than in accordance with sections 23, 24, 25, 27 and 28 in respect of any debt entered in the schedule prepared under section 21 in respect of any person declared to be an encumbered industrial worker.

Bar of recovery of debt of industrial worker.

30. No debt incurred by any industrial worker, while he is an encumbered industrial worker, shall be recoverable in any court.

Cessation of industrial worker as encumbered industrial worker.

31. (1) The court may, at any time before the expiry of thirty-seven months from the date of its order under section 26, if it is satisfied that an encumbered industrial worker has paid the sums specified in that order, declare that he has ceased to be an encumbered industrial worker.

(2) On such a declaration being made or on the expiry of thirty-seven months from the date of the order under section 26, whichever is earlier, the industrial worker shall cease to be an encumbered industrial worker.

Display of lists of petitioners and encumbered industrial workers.

32. The court shall cause to be displayed at all times during court hours in a part of the court house to which the public have access—

(*a*) a list of all petitioners whose liquidation petitions are pending in the court, giving their addresses and the dates of their petitions and the dates on which these petitions will be heard:

(*b*) a list of all industrial workers who are encumbered industrial workers, giving their addresses and the dates on which they are declared to be encumbered industrial workers.

Concealment of any debt by industrial worker.

33. If an industrial worker conceals any debt, the creditor to whom such debt is due may apply to the court for a declaration that any proceedings instituted by such industrial worker are not applicable to that debt, and on such a declaration being given the creditor shall have all the rights in respect of such debt that he would have had if the proceedings were not instituted, except that he shall have no claim against any assets realized and distributed.

Power of court to cancel proceedings.

34. The court may, at any time for reasons to be recorded in writing, cancel the proceedings on grounds relating to the conduct of the petitioner, and if a liquidation petition is proved to be false in any material particular, the court may declare that the petitioner is not entitled to any further relief under this Act, in which case no further petition from him shall be considered.

Appeal.

35. (1) Any petitioner or creditor aggrieved by any order of the court under sub-section (1) of section 20 or section 26 or section 34 may, within thirty days from the date of such order, appeal to the court ordinarily hearing appeals from a decision of such first mentioned court.

(2) On admission of an appeal under sub-section (1), the court shall pass such order thereon as it thinks fit, and this order shall be final and shall not be subject to revision.

Limitation.

36. In calculating the period of limitation for any suit or application which might have been brought or made but for proceedings under this Act, the period from the date of presentation of a liquidation petition under this Act to the date the proceedings thereunder terminate shall be excluded.

Penalty.

37. If an industrial worker, whether before or after the making of an order of adjudication,—

(*a*) wilfully fails to deliver up to the court or to any person authorized by it in this behalf possession of any part of his assets which are realizable by the court under this Act and which are for the time being in his possession or under his control, or

(*b*) fraudulently with intent to conceal the state of his affairs or to defeat the objects of this Act,—

(i) has destroyed or otherwise wilfully prevented or purposely withheld the production of any document relating to such of his affairs as are subject to investigation under this Act, or

(ii) has kept or caused to be kept false account books or

(iii) has made false entries in or withheld entries from or wilfully altered or falsified any document relating to such of his affairs as are subject to investigation under this Act, or

(*c*) fraudulently with intent to diminish the sum to be distributed among his creditors or to give an undue preference to any of his creditors,—

(i) has discharged or concealed any debt due to or from him, or

(ii) has made away with, charged, mortgaged or concealed any part of his assets,

he shall be punishable, on conviction, with imprisonment which may extend to one year.

Penalty to encumbered industrial worker for obtaining credit.

38. (1) An encumbered industrial worker obtaining credit to the extent of fifty rupees or upwards from any person without informing such person that he is an encumbered industrial worker shall, on conviction by a Magistrate, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two hundred rupees or with both.

(2) Where the court has reason to believe that an encumbered industrial worker has committed the offence referred to in sub-section (1) the court, after making such preliminary inquiry as may be deemed fit, may send the case for trial to the nearest Magistrate of the first class and may send the accused in custody or take sufficient security for his appearance before such Magistrate and may bind over any person to appear and give evidence on such trial.

Power to make rules.

39. (1) The local Government may, after previous publication, make rules for the purpose of carrying into effect all or any of the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, the local Government may make rules—

(*a*) prescribing the manner of giving notice under sub-section (2) of section 9,

(*b*) prescribing the form in which a schedule shall be prepared under section 21,

(*c*) prescribing the form in which a statement shall be prepared under sub-section (1) of section 26,

(*d*) prescribing the form in which an order shall be made under sub-section (2) of section 26, and

(*e*) generally for the purpose of carrying into effect the provisions of this Act.

COMMERCE AND INDUSTRY DEPARTMENT

Nagpur, the 2nd February 1937.

No. 306-317-XIII.—In exercise of the powers conferred by clause (iv) of section 2 of the Central Provinces Adjustment and Liquidation of Industrial Workers' Debt Act, 1936 (C. P. Act V of 1936), the Governor in Council is pleased to invest the following Courts of the Subordinate Judges, Second Class, with powers to try cases under the said Act arising within the areas shown against them :—

Name of Court and area.
First Subordinate Judge, Second Class, Nagpur—Nagpur City.
First Subordinate Judge, Second Class, Wardha—Wardha and Pulgaon towns.
Subordinate Judge, Second Class, Hinganghat—Hinganghat town.
First Subordinate Judge, Second Class, Jubbulpore—Jubbulpore town.
First Subordinate Judge, Second Class, Burhanpur—Burhanpur.

COMMERCE AND INDUSTRY DEPARTMENT.

Nagpur, the 2nd February 1937.

No. 307-317-XIII.—In exercise of the powers conferred by clause (iv) of section 2 of the Central Provinces Adjustment and Liquidation of Industrial Workers' Debt Act, 1936 (C. P. Act V of 1936), as applied to Berar, the Governor in Council is pleased to invest the following Courts of the Subordinate Judges, Second Class, with powers to try cases under the said Act arising within the areas shown against them:—

Name of Court and area.

First Subordinate Judge, Second Class, Amraoti—Badnera town.

Subordinate Judge, Second Class, Ellichpur—Ellichpur town.

First Subordinate Judge, Second Class, Akola—Akola town.

RULES UNDER SUB-SECTION (2) OF SECTION 39 OF THE CENTRAL PROVINCES ADJUSTMENT AND LIQUIDATION OF INDUSTRIAL WORKERS DEBT ACT, 1936 (C. P, ACT V. OF 1936), AND UNDER THAT ACT AS APPLIED TO BERAR

1. These rules may be cited as the Central Provinces Adjustment and Liquidation of Industrial Workers' Debt Rules, 1936.

2. In these rules—

(*a*) "the Act" means the Central Provinces Adjustment and Liquidation of Industrial Workers' Debt Act, 1936 (C. P. Act V of 1936);

(*b*) words and expressions defined in the Act shall be deemed to have the same meaning as in the Act.

3. The notice of the order under sub-section (1) of section 9 shall be served either by registered post or through a process-server.

4. The schedule of determined debts under section 21 shall be prepared in Form A.

5. The order of the Court under sub-section (1) of section 26 shall be passed in Form B.

FORM A

(SEE RULE 4)

Serial No.	Names of creditors	Amount of debt determined in respect of each creditor	Assets of the petitioner	Value of assets as estimated by court	Average income of the petitioner
(1)	(2)	(3)	(4)	(5)	(6)
		Rs. a. p.		Rs. a. p.	Rs. a. p.

FORM B

(SEE RULE 5)

Order under sub-section (1) of section 26 of the Central Provinces Adjustment and Liquidation of Industrial Workers' Debt Act, 1936 (C. P. Act V of 1936).

In the Court of Mr. Judge, .

Case No. of 193 .

Applicant

versus

Non-applicant(s).

ORDER

Dated the 193 .

The proceeds of the assets of the applicant amounting to Rs. have been distributed to the creditor/creditors No. as detailed in column 3 of the schedule hereto annexed as the creditor holds/creditors hold a mortgage (charge or lien) on the assets. It is now hereby ordered that the surplus which amounts to Rs. , shall be paid to the creditor/creditors to the extent of the share assigned to him/them as shown in column 4 of the said schedule in monthly instalments and on the dates mentioned in columns 5 and 6, respectively. The serial order* in which the names of creditors have been mentioned in the schedule shall be deemed to be the order of priority for the purpose of making payments under this order.

Schedule.

Serial No.	Name, father's name, etc., of the creditor	Amount paid in adjustment of debt	Share of surplus assigned to the creditor(s)	Amount of monthly instalment	Date on which the instalment should be paid	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
		Rs. a. p.		Rs. a. p.		

Given under my hand and seal of the Court this day of 193 .

Seal.

Signature of the Judge.

*NOTE.—When there is more than one creditor, the name of creditor, whose debt has been adjusted in full should be written first and columns 4 to 7 shall be blank in his case. Then the order of priority for the purpose of distributing surplus shall begin from the second creditor.

CENTRAL PROVINCES ACT No. IV OF 1937

THE CENTRAL PROVINCES PROTECTION OF DEBTORS ACT, 1937

[This Act comes into operation in the Central Provinces on the 8th March 1937.]

Preamble.

An Act to provide for the protection of debtors from molestation and intimidation by their creditors.

WHEREAS it is expedient to make provision for the protection of debtors from molestation and intimidation by their creditors for the recovery of debts;

AND WHEREAS the previous sanction of the Governor General required by sub-section (3) of section 80-A of the Government of India Act has been obtained for the passing of this Act;

It is hereby enacted as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Central Provinces Protection of Debtors Act, 1937.

(2) It extends to the whole of the Central Provinces.

(3) It shall come into force on such date as the Local Government may, by notification, appoint in this behalf.

Application of sections 4 and 5.

*2. The provisions of sections 4 and 5 shall apply only to such areas as the Local Government may, by notification, direct.

Definition of molestation.

3. For the purposes of this Act, a person who, with intent to cause another person to abstain from doing or to do any act which he has a right to do or to abstain from doing,—

(*a*) obstructs, or uses violence to, or intimidates, such other person, or

(*b*) persistently follows such other person from place to place or interferes with any property owned or used by him or deprives him of, or hinders him in, the use thereof, or

(*c*) loiters or does any similar act at or near a house or other place where such other person resides, or works, or carries on business, or happens to be,

shall be deemed to molest such other person:

Provided that a person who attends at or near such house or place in order merely to obtain or communicate information shall not be deemed to molest.

* The provisions of sections 4 and 5 have been applied to all areas of he Central Provinces

Penalty for molestation.

4. Whoever molests, or abets the molestation of, any debtor for the recovery of a debt owed by him to his creditor shall be punishable with simple imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Molestation to be cognizable and non-bailable offence.

5. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence punishable under section 4 shall be cognizable and bailable, and no court shall take cognizance of any such offence except upon a report in writing of facts which constitute the offence made by a police officer not below the rank of sub-inspector.

Amendment to the Central Provinces and Berar Debt Legislation Pamphlet.

PAGE 86

At the bottom of the page the following footnote shall be *inserted*, namely :—

"This Act came into operation in 'Berar' on the 30th March 1937 and the provisions of sections 4 and 5 have been applied to all areas of Berar."

C. R. HEMEON,
Judicial Secretary to Government,
Central Provinces

GPN—212—JS—8-4-37—2,000.

GPN—1285—JD—21-3-37—2,000.

Amendments to the Central Provinces and Berar Debt Legislation Pamphlet, 1937

No. 2, dated Nagpur, the 21st May 1937.

1. In the table of contents of the book—

(*a*) after serial no. 13, the following entry shall be *inserted* namely :—

"14. Central Provinces Reduction of Interest Act, 1936 ... 86"

(*b*) serial no. 14 shall be *renumbered* as serial no. 15.

2. In the notification printed at page 54, *for* the date "29th May 1936", the date "29th May 1934" shall be *substituted*, and *for* the word and figures "(I of 1934)", the word and figures "(XI of 1934)" shall be *substituted*.

3. After page 85, the accompanying two pages shall be *inserted* and pages 86 and 87 shall be *renumbered* as 88 and 89, respectively.

C. R. HEMEON,

Secretary to Govt., C. P. & Berar,
Judicial Department.

[Printed under the authority of the Governor of Fort St. George in Council by the Superintendent of the Government Press, Madras.]

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MADRAS ACT No. VII OF 1935.

(*As corrected up to 1st February* 1936.)

PASSED BY THE LEGISLATIVE COUNCIL OF MADRAS.

[*Received the assent of the Governor on the* 16*th January* 1935 *and that of the Governor-General on the* 6*th March* 1935, *the assent of the Governor-General was first published in the "Fort St. George Gazette" on the* 26*th March* 1935.

An Act for the protection of certain classes of debtors in the Presidency of Madras.

WHEREAS it is expedient to make provision for the protection of certain classes of debtors in the Presidency of Madras, and for that purpose to regulate the keeping of accounts by certain classes of creditors;

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act;

PRICE, 3 *annas*]

It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Madras Debtors' Protection Act, 1934.

(2) It extends to the whole of the Presidency of Madras.

(3) It shall come into force on such date as the Local Government may, by notification in the *Fort St. George Gazette*, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,

(1) " bank " means a company carrying on the business of banking and—

(*a*) registered under any of the enactments relating to companies for the time being in force in the United Kingdom or in any of the British Dominions, or in any of the Colonies or Dependencies of the United Kingdom, or in British India, or in any State in India, or

(*b*) incorporated by an Act of Parliament or by Royal Charter or Letters Patent or by any Act of the Indian Legislature;

(2) " company " means a company—

(*a*) registered under any of the enactments relating to companies for the time being in force in the United Kingdom or in any of the British Dominions, or in any of the Colonies or Dependencies of the United Kingdom, or in British India, or in any State in India, or

(*b*) incorporated by an Act of Parliament or by Royal Charter or Letters Patent or by any Act of the Indian Legislature,

and includes a life assurance company to which the Indian Life Assurance Companies Act, 1912, applies; VI of 1912.

(3) " co-operative society " means a society registered or deemed to be registered under the Madras Co-operative Societies Act, 1932; Madras Act VI of 1932.

(4) " Court " includes a court acting in the exercise of insolvency jurisdiction;

(5) " creditor " means a person, including a pawnbroker, who in the regular course of business advances a loan and includes the legal representative and the successor-in-interest whether by inheritance, assignment or otherwise of the person who advanced the loan;

(6) " interest " does not include any sum lawfully charged in accordance with the provisions of this Act by a creditor for or on account of costs, charges, or expenses, but save as aforesaid, includes any amount, by whatsoever name called, in excess of the principal, paid or payable to a creditor in consideration of or otherwise in respect of a loan,

(7) " loan " means an advance of money or in kind at interest, being for a sum, or being of a value, of less than five hundred rupees at a time in any one transaction, and includes any transaction which the Court finds in substance to amount to such an advance, but does not include—

(i) a deposit of money or other property in a Government Post Office Savings Bank, or in a bank, in a company or with a co-operative society;

(ii) an advance made by a bank, a company or a co-operative society;

(iii) an advance made by Government or by any person authorized by Government to make advances in their behalf, or by any local authority;

(iv) an advance made by any person *bona fide* carrying on any business, not having for its primary object the lending of money, if such loan is advanced in the regular course of such business;

(v) an advance made by a landlord to his tenant, by a lessor to his lessee, by one partner in cultivation or co-sharer to another for the purpose of carrying on agriculture;

(vi) an advance made on the basis of a negotiable instrument as defined in the Negotiable Instruments Act, 1881, other than a promissory note;

(8) " pawnbroker " means a person who carries on the business of taking goods and chattels in pawn for a loan;

(9) " pawner " means a person delivering an article for pawn to a pawnbroker;

(10) " prescribed " means prescribed by rules made under this Act; and

(11) " principal " means in relation to a loan the amount actually lent to the debtor.

Duty of creditor to maintain accounts and to give receipts.

3. (1) Every creditor shall—

(*a*) regularly record and maintain or cause to be recorded and maintained, an account showing for each debtor separately—

(i) the date of the loan, the amount of the principal of the loan, and the rate per cent per annum of interest charged on the loan; and

(ii) the amount of every payment received by the creditor in respect of the loan, and the date of such payment;

(*b*) give to the debtor or his agent, a receipt for every sum paid by him, duly signed and, if necessary, stamped at the time of such payment; and

(*c*) on requisition in writing made by the debtor, furnish to the debtor or, if he so requires, to any person mentioned by him in that behalf in his requisition, a statement of account signed by himself or his agent showing the particulars referred to in clause (*a*) and also the amount which remains outstanding on account of the principal and of interest and charge such sum as the Local Government may prescribe as fee therefor.

(2) Notwithstanding anything contained in the Indian Evidence Act, 1872, a copy of the account referred to in clause (*a*) of sub-section (1) certified in such manner as may be prescribed, shall be admissible in evidence in the same manner and to the same extent as the original account. I of 187

(3) A person to whom a statement of account has been furnished under clause (*c*) of sub-section (1) and who fails to object to the correctness of the account shall not by such failure alone be deemed to have admitted the correctness of such account.

Additional accounts to be maintained by pawnbrokers.

4. (1) Every pawnbroker shall regularly record and maintain an account in which, in addition to the particulars referred to in clause (*a*) of sub-section (1) of section 3, he shall record or cause to be recorded—

(*a*) a full and detailed description of the article or of each of the articles taken in pawn,

(*b*) the time agreed upon for the redemption of the pawn, and

(*c*) the name of the pawner and, where the pawner is not the owner of the article or of any of the articles pawned, the name and address of the owner thereof.

(2) A copy of the entries in such account shall be delivered by the pawnbroker to the pawner at the time of the pawn on tender of such sum as the Local Government may prescribe as the charge therefor.

Figures in accounts and receipts to be in Arabic numerals.

5. In the receipt to be given under clause (*b*) of sub-section (1) of section 3, in the statement of account to be furnished under clause (*c*) of that sub-section and in the copy of the entries to be delivered under sub-section (2) of section 4, the figures shall be entered only in Arabic numerals.

Penalty for non-compliance with sections 3 and 4.

6. (1) In any suit or proceeding relating to a loan, if the Court finds that a creditor has not maintained an account as required by clause (*a*) of sub-section (1) of section 3 or by sub-section (1) of section 4, he shall not be allowed his costs.

(2) If a creditor fails to give to the debtor or his agent a receipt as required by clause (*b*) of sub-section (1) of section 3 or to furnish, on a requisition made under clause (*c*) of that sub-section, a statement of account as required therein within one month after such requisition has been made, or if a pawnbroker fails to deliver to the pawner, a copy of the entries as required by sub-section (2) of section 4, he shall not be entitled to any interest for the period of the default.

Presumption in the case of certain loans.

*6-A. (1) If in any suit or proceeding relating to a loan advanced after the commencement of the Madras Debtors' Protection (Amendment) Act, 1935, it is found that the interest charged exceeds, in the case of a secured loan, nine per cent per annum simple interest

* Section 6-A was inserted by the Madras Debtors' Protection (Amendment) Act, 1935 (Madras Act IV of 1936), section 2.

and in the case of an unsecured loan, fifteen per cent per annum simple interest, the Court shall, until the contrary is proved, presume for the purposes of sections
X of 1918. 3 and 4 of the Usurious Loans Act, 1918, that the interest charged is excessive and that the transaction was, as between the parties thereto, substantially unfair.

Explanation.—In the case of any loan so advanced, if compound interest is charged and the amount claimed by the creditor by way of such interest until the date of the institution of the suit or proceeding for the recovery of the loan exceeds the amount of simple interest calculated at the rate of nine per cent per annum or fifteen per cent per annum, as the case may be, the Court shall draw the presumption referred to in this sub-section until the contrary is proved.

(2) The provisions contained in sub-section (1) shall be without prejudice to the powers of the Court
X of 1918. under sections 3 and 4 of the Usurious Loans Act, 1918, in cases where the court has reason to believe that the interest charged, though not exceeding nine per cent per annum simple interest or fifteen per cent per annum simple interest, as the case may be, is excessive and that the transaction was, as between the parties thereto, substantially unfair.

Savings. 7. Nothing contained in this Act shall apply to any loan advanced before the commencement of this Act.

Rules. 8. (1) The Local Government may make rules not inconsistent with this Act for the purpose of carrying out all or any of its purposes.

(2) In particular and without prejudice to the generality of the foregoing power the Local Government may make rules prescribing—

(*a*) the sum which may be charged as fee for a statement of account, furnished under clause (*c*) of sub-section (1) of section 3,

(*b*) the manner in which a copy of the account shall be certified for the purpose of sub-section (2) of section 3, and

(*c*) the sum which may be charged for a copy of the entries in a pawnbroker's account, to be delivered by the pownbroker to the pawner under sub-section (2) of section 4.

RULES MADE BY THE LOCAL GOVERNMENT UNDER THE ACT.

In exercise of the powers conferred by section 8 of the Madras Debtors' Protection Act, 1934 (Madras Act VII of 1935), the Governor in Council is hereby pleased to make the following rules :—

1. (1) These rules may be called the Madras Debtors' Protection Rules, 1936. **Short title and commencement.**

(2) They shall come into force on and from the 15th January 1936.

2. In these rules, unless there is anything repugnant in the subject or context, " the Act " means the Madras Debtors' Protection Act, 1934. **Definition.**

3. (1) Every creditor shall keep a separate account in respect of each loan. **Maintenance of accounts.**

(2) The name and address of the debtor, and in the case of joint-debtors, of each joint-debtor shall be entered at the head of the account.

(3) Every entry in an account shall be dated with the date of the transaction to which it relates and shall, as far as possible, be made on such date.

(4) The account shall show the balance on account of the principal and interest outstanding against a debtor on the 30th June and 31st December of every year and shall also show the balance outstanding on the date of any statement of account prepared in accordance with clause (*c*) of sub-section (1) of section 3 of the Act.

4. The statement of account to be furnished to the debtor as well as the receipt to be given to him shall be in English or in the chief vernacular language of the locality.

5. (1) (*a*) The statement of account shall be sent to the debtor by registered post, acknowledgment due, to the address given in the requisition made by the debtor. **Manner of furnishing statement of accounts.**

(*b*) In the case of joint-debtors, the statement of account shall, in the absence of an agreement to the contrary, be sent in the manner laid down in clause (*a*) to the joint-debtor named first at the head of the account.

(2) Notwithstanding anything contained in sub-rule (1) where the debtor or, in the case of joint-debtors, the joint-debtor named first at the head of the account, agrees in writing to the statement being delivered personally, it shall not be necessary to send it by registered post.

(3) When a debtor or a joint-debtor takes personal delivery of the statement of account, he shall

acknowledge receipt of the same in writing. The debtor or the joint-debtor, as the case may be, shall sign the acknowledgment, or if he is illiterate affix his thumb-impression thereto.

(4) If the statement of account is sent by registered post, the production of the postal receipt and acknowledgment shall be sufficient proof of the sending of such statement.

(5) The postal registration and acknowledgment charges incurred under sub-rule (1) shall be entered in the account and shall be recoverable by the creditor as if such charges were included in the loan, but no interest shall be charged thereon.

(6) (*a*) The fee which may be charged by a creditor for a statement of account furnished by him under clause (*c*) of sub-section (1) of section 3 of the Act shall be as follows :—

	RS.	A.	P.
(i) If the amount of the loan does not exceed Rs. 50	0	1	0
(ii) If the amount of the loan exceeds Rs. 50 but does not exceed Rs. 100.	0	2	0
(iii) If the amount of the loan exceeds Rs. 100 but does not exceed Rs. 300	0	3	0
(iv) If the amount of the loan exceeds Rs. 300 but is less than Rs. 500.	0	4	0

Explanation.—The fee shall be charged separately in respect of each loan and each requisition. Thus the fee for the statements relating to two separate loans of Rs. 120 and of Rs. 360 will be seven annas.

(*b*) The fee shall be recoverable by the creditor as if it were included in the loan but no interest shall be charged thereon.

Person to whom the receipt is to be given in the case of a joint loan.

6. Where there are two or more joint-debtors, the creditor shall, in the absence of any agreement to the contrary, give the receipt to the joint-debtor named first at the head of the account or to his agent.

Manner of certifying copies of accounts.

7. (1) No copy of an account shall be admissible in evidence under sub-section (2) of section 3 of the Act, unless it contains two certificates at the foot, the first by the creditor himself or his agent and the second by some other person who has compared the copy with the original.

(2) The certificate of the creditor or his agent under sub-rule (1) shall be in the following form :—

"I certify that the above is a true copy of the account maintained under section 3 (1) (*a*) of the Madras Debtors' Protection Act, 1934, for the loan of Rs. . . taken by . . . on . . . (date) and that there are no alterations or erasures in the account (except the following)."

Signature of creditor or his agent.

(3) The certificate of a person other than the creditor or his agent shall be in the following form :—

"I certify that I have compared the above copy with the original account in the custody of the creditor and found it to be correct.

Signature.
Designation.
Address."

8. The sum which may be charged by a pawnbroker for a copy of the entries in his account delivered by him to the pawner under sub-section (2) of section 4 of the Act shall be one anna.

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GOVERNMENT OF MADRAS.

LEGAL DEPARTMENT.

MADRAS ACT No. XI OF 1936

PASSED BY THE LEGISLATIVE COUNCIL OF MADRAS.

[*Received the assent of the Governor on the 29th February* 1936 *and that of the Governor-General on the 5th April* 1936, *the assent of the Governor-General was first published in the "Fort St. George Gazette" on the 28th April* 1936.]

An Act to make provision for the setting up of Debt Conciliation Boards to relieve agriculturists from indebtedness.

WHEREAS it is expedient to relieve agriculturists from indebtedness by amicable settlement between them and their creditors;

[PRICE, 4 *annas*.]

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act;

It is hereby enacted as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Madras Debt Conciliation Act, 1936.

(2) It extends to the whole of the Presidency of Madras.

(3) It shall come into force on such date as the Local Government may, by notification, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(*a*) ' landholder ' means a person holding land under a Sanad-i-Milkiyat-i-istimrar, a zamindar, shrotriyamdar, jagirdar or inamdar, a person farming the land revenue under Government, and a holder of any land under ryotwari settlement or in any way subject to the payment of revenue direct to Government;

(*b*) ' tenant ' means a ryot having a permanent right of occupancy in his holding and includes a kanamdar in Malabar and a ' Mulgeni ' tenant in South Kanara;

(*c*) ' agriculture ' includes horticulture, the use of land for any purpose of husbandry inclusive of the keeping or breeding of livestock, poultry or bees, sericulture and the growing of fruits, vegetables and the like;

(*d*) ' board ' means a Debt Conciliation Board established under sub-section (1) of section 3;

(*e*) ' creditor ' means a person to whom a debt is owing and includes a co-operative society;

(*f*) ' debt ' means all liabilities owing to a creditor, in cash or kind, secured or unsecured, whether payable under a decree or order of a civil court or otherwise, and whether mature or not but shall not include arrears of wages, land revenue or anything recoverable as an arrear of land revenue, rent as defined in the Madras

Estates Land Act, 1908, or any money for the recovery of which a suit is barred by limitation; Madras Act I of 1908.

(*g*) ' debtor ' means a person—

(i) who earns his livelihood mainly by agriculture or who is an occupancy tenant or landholder whether he cultivates the land personally or otherwise; and

(ii) whose debts exceed one hundred rupees;

(*h*) ' prescribed ' means prescribed by rules made under this Act;

(*i*) ' secured debt ' includes mortgage debt or any debt for which there is security, lien or charge on immovable property created by deed, statute or otherwise;

(*j*) ' secured creditor ' means a creditor who holds for his debt a security by way of mortgage, lien or charge on immovable property created by a deed, statute or otherwise.

Establishment and constitution of boards.

3. (1) The Local Government may establish a Debt Conciliation Board for any district or part of a district. Such board shall consist of a chairman and two members appointed by the Government. The chairman shall be a person who holds or has held an office not lower in rank than that of a Subordinate Judge or a Deputy Collector. One at least of the members shall be a non-official. The Local Government may, for reasons to be recorded in writing, cancel the appointment of the chairman or any member of the board or dissolve any board and from the date of such dissolution the board shall cease to exist.

(2) The chairman and every member of a board so established shall be appointed for a term not exceeding three years. Such chairman or member may, on the expiration of the period for which he has been appointed, be again appointed for a further term not exceeding three years.

(3) A board shall have such quorum as may be prescribed.

(4) Where the chairman and members of a board are unable to agree, the opinion of the majority shall prevail. Where the board is equally divided, the chairman shall have a casting vote.

(5) When a board is dissolved or otherwise ceases to exist, the Local Government may, at any time establish another board for the area for which the former board was established and may declare the board newly established to be the successor in office of the board which has ceased to exist and such board shall exercise all the powers under the Act.

Application for settlement between debtor and his creditors.

4. (1) A debtor may make an application for the settlement of his debts to the board established for the local area within which he ordinarily resides, or if no board has been established for that local area, to the board established for any local area in which he holds immovable property, if any, but he shall not apply to more than one board.

(2) Unless the debtor has already made an application under sub-section (1), any of his creditors may make an application to a board to which the debtor might have applied under that sub-section.

(3) If applications for the settlement of the debts of the same debtor are made to more than one board, such applications shall, in accordance with rules made under this Act, be transferred to and dealt with by one board as one single application.

Verification of application.

5. Every application to the board shall be in writing and shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1908, for signing and verifying plaints. V of 1908.

Particulars to be stated in application.

6. (1) Every application made by a debtor to a board shall contain the following particulars, namely:—

(*a*) a statement that the debtor is unable to pay his debts;

(*b*) the place where he resides;

(*c*) the amount and particulars of all claims against him together with the names and residences of his creditors so far as they are

known to, or can by the exercise of reasonable care and diligence be ascertained by him; and

(*d*) particulars of the debtor's property, both movable and immovable (including claims due to him), a specification of the value thereof and of the places where the same may be found and details of any mortgage, lien or charge subsisting thereon.

(2) Every application made by a creditor shall contain the following particulars, namely :—

(*a*) the place where the debtor resides; and

(*b*) the amount and particulars of his claim against such debtor.

Rejection of application.

7. The application shall be rejected if it does not comply with any of the requirements mentioned in sections 5 and 6.

The rejection of an application under this section shall not preclude the applicant from making a fresh application.

Procedure on application.

8. (1) On receipt of an application under section 4 the board shall unless it rejects the application under section 7 pass an order fixing a date and place for hearing the application.

(2) Notice of the order under sub-section (1) shall be sent by registered post to the debtor and creditors.

(3) If the application is made by a creditor, the debtor shall, on his appearance, furnish the particulars mentioned in sub-section (1) of section 6 and notice shall be sent to all the creditors specified by him.

Dismissal of application.

9. An application under section 4 may be dismissed by the board at any stage of the proceedings—

(*a*) if, for reasons to be stated in writing, the board does not consider it desirable or practicable to effect a settlement of debts; or

(*b*) if, in the opinion of the board, the applicant fails to pursue his application with due diligence :

Provided that, when such applicant is a creditor, the board, instead of dismissing such application, may substitute the debtor or any other creditor, who shall thereafter be deemed to be the applicant for the purposes of this Act; or

(c) if the application includes a claim which, in the opinion of the board, is collusive and intended to defraud any creditor.

Notice calling upon creditors to submit statements of debts.

10. (1) If, after examining the debtor, it is in the opinion of the board desirable to attempt to effect a settlement between him and his creditors, a notice shall be issued and served or published in the manner prescribed, calling upon every creditor of the debtor to submit a statement of debts owed to such creditor by the debtor. Such statement shall be in writing and shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1908, for signing and verifying claims and shall be submitted to the board within two months from the date of service or publication of the notice as the case may be :

Provided that, if the board is satisfied that any creditor was, for good and sufficient cause, unable to comply with such directions, it may extend the period for the submission of his statement of the debt owed to him.

(2) Subject to the provisions of sub-section (3) every debt of which a statement is not submitted to the board in compliance with the provisions of sub-section (1) shall be deemed for all purposes and all occasions to have been duly discharged.

(3) If a creditor proves to the satisfaction of the board or a civil court that the notice was not served on him or that he had no knowledge of the publication thereof or that for some other sufficient reason, he was unable to submit the statement, the board or court may revive the debt, if the creditor files an application in that behalf within two months after he becomes aware of the proceedings taken under this section :

Provided that a creditor shall not be entitled to apply under this sub-section to the board and to a civil court simultaneously or to apply to either the board or a civil court after having applied to the other.

Procedure on submission of statement of debts.

11. (1) Every creditor submitting a statement of the debts owed to him in compliance with a notice issued under sub-section (1) of section 10 shall furnish, along with such statement full particulars of all such debts and shall at the same time produce all documents, including entries in books of account on which he relies to support his claims, together with a true copy of every such document.

(2) The board shall, after marking for the purpose of identification every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the creditor.

(3) If any document which is in the possession or under the control of the creditor is not produced by him as required by sub-section (1) the document shall not be admissible in evidence against the debtor in any suit brought by the creditor or by any person claiming under him for the recovery of the debt:

Provided the board or the court shall have power to excuse for valid reasons any default or delay in producing the document and to grant reasonable time for producing the same in any proceeding pending before it.

Power of board to decide dispute as to the existence or amount of debts or assets.

12. (1) The board shall call upon the debtor and each creditor respectively to explain his case regarding each debt.

(2) If there is a dispute as to the existence or the amount of the debt due to any creditor or the assets of any debtor the board may decide the matter after taking such evidence as may be adduced by all the parties concerned and such decision shall be binding on all parties in all proceedings before the board:

Provided that a decree of a civil court relating to a debt shall be conclusive evidence as to the existence and amount of the debt.

(3) The board shall prepare a complete schedule of the creditors and of the assets and liabilities of the debtor.

Power of board to require attendance of persons and production of documents.

13. (1) Subject to rules made under this Act, a board may exercise all such powers connected with the summoning and examining of parties and witnesses and with the production of documents as are conferred on a civil court by the Code of Civil Procedure, 1908.

3.

(2) Any person present may be required by a board to furnish any information or to produce any document then and there in his possession or power.

Agreement of amicable settlement, its registration and effect.

14. (1) If the creditors to whom more than fifty per cent of the total amount of the debtor's debts is owing come to an amicable settlement with the debtor, such settlement shall forthwith be reduced to writing in the form of an agreement recording the amounts payable to such creditors and the manner in which, the assets from which and the times at which, they are to be paid. Such agreement if considered equitable by the board shall be read out and explained to the parties concerned, and shall be signed or otherwise authenticated by the board and the parties who have agreed to the amicable settlement:

Provided that, when a co-operative society is one of such creditors no settlement, in so far as it affects the debts owing to such society, shall be valid without the previous approval in writing of the Registrar of Co-operative Societies:

Provided further that when a secured creditor does not agree to the settlement, such settlement shall not affect his rights to proceed against the secured property.

(2) An agreement made under sub-section (1) shall, within thirty days from the date of the making thereof, be registered under the Indian Registration Act, XVI 1908, by the chairman of the board in such manner as may be prescribed and it shall then take effect as if it were a decree of a civil court and be executable as such.

(3) For the purpose of the registration of an agreement under sub-section (2), the chairman of the board shall be deemed to be an officer of the Government empowered to execute such agreement within the meaning of section 88 of the Indian Registration Act, 1908. XVI 1908

(4) If, after the making of an agreement under sub-section (1), any debt is revived by the board or a civil court under sub-section (3) of section 10, the agreement and all proceedings taken in pursuance thereof shall stand cancelled; the application under section 4 shall be deemed

to have been received in the office of the board on the date of such reviver, and all the provisions of this Act shall apply in respect of the application accordingly.

Properties exempt from attachment not to be taken into account.

15. In any scheme of debt conciliation under this Act such properties as are exempt from attachment under the Code of Civil Procedure, 1908, shall not be taken into account and shall be left to the judgment debtor free from any liability for his debts.

Maximum amount allowable in satisfaction of a debt.

16. In any scheme of debt conciliation under this Act, no creditor shall be allowed a greater amount in satisfaction of both principal and interest than twice the amount of the principal and if the debt was incurred before the first day of June 1933 twice the amount due on the said date.

Power of board to dismiss application.

17. If no amicable settlement is arrived at under sub-section (1) of section 14 within twelve months from the date of the application under section 4, the board shall dismiss the application.

Grant of certificate in respect of certain debts.

18. (1) Where, during the hearing of any application made under section 4, any creditor refuses to agree to an amicable settlement, the board shall, if it is of opinion that the debtor has made such creditor a fair offer which the creditor ought reasonably to accept, grant the debtor a certificate, in such form as may be prescribed in respect of the debts owed by him to such creditor.

(2) The board, in coming to a decision whether the offer made is fair or not, may take into consideration—

(i) the fall or rise in the value of land and its produce, in the locality;

(ii) the amount of consideration actually received;

(iii) the reasonableness of the rates of interest;

(iv) the onerous conditions, if any, subject to which the loan was granted;

(v) whether at any time, the creditor or the debtor was offered settlement of the debt in full or part and if so what the terms were; and

(vi) any other particulars which the board thinks it desirable to take into account.

Power of court to disallow cost or interest.

(2) Where any creditor sues in a civil court for the recovery of a debt in respect of which a certificate has been granted under sub-section (1), the court shall, notwithstanding the provisions of any law for the time being in force, not allow the plaintiff any costs in such suit, or any interest on the debt after the date of such certificate in excess of simple interest at 6 per cent per annum on the principal amount due on the date of such certificate.

Decrees in suits after registration of agreement not to be executed.

(3) Where after the registration of an agreement under sub-section (2) of section 14, any unsecured creditor sues for the recovery of a debt (other than a debt incurred subsequent to such agreement) in respect of which a certificate has been granted under sub-section (1) or any creditor sues for the recovery of a debt incurred after the date of such agreement, any decree passed in such suit shall, notwithstanding anything contained in the Code of Civil Procedure, 1908, not V of be executed as against the assets, if any, set apart in the agreement for the satisfaction of the agreed debts until all amounts recorded as payable under such agreement have been paid.

Bar of civil suits.

19. No civil court shall entertain—

(*a*) any suit in respect of—

(1) any matter pending before a board, or

(2) the validity of any procedure or the legality of any agreement made under this Act, or

(3) the recovery of any debt recorded as wholly or partly payable under an agreement registered under sub-section (2) of section 14 from any person who, as a debtor, was party to such agreement; or

(4) the recovery of any debt which has been deemed to have been duly discharged under sub-section (2) of section 10, except a debt which is revived under sub-section (3) of that section; or

(*b*) any application to execute a decree, the execution of which is suspended under sub-section (3) of section 18.

Avoidance of certain transfers of debtors' property.

20. Every transfer of property made, with intent to defeat or delay the creditors of the debtor, after an application has been made to a board under section 4 and until the agreement registered in pursuance of such application has been fully carried out shall be voidable by order of the board on application by the creditors so defeated or delayed.

Alienation made with sanction of board not to be considered as a fraudulent preference.

21. Any alienation of land for a fair price made with the sanction of the board in pursuance of or to carry out the agreement mentioned in section 14 shall not be considered as a fraudulent preference under the Presidency Towns Insolvency Act, 1909, and the Provincial Insolvency Act, 1920, nor shall such alienation be voidable under section 53 of the Transfer of Property Act, 1882.

V of 1909.
V of 1920.
IV of 1882.

Bar of appeal or revision.

22. No appeal or application for revision shall lie against any order passed by a board.

Power of board to review its order.

23. A board may, on application from any person interested made within ninety days of the passing of an order, or on its own motion at any time review any order passed by it and pass such order in reference thereto as it thinks fit:

Provided that no order shall be varied or reversed unless notice has been given to the persons interested to appear and be heard in support of such order.

Appearance of parties before board.

24. In any proceedings before a board any party may appear in person or with the permission of the board by a legal practitioner or an agent authorized in writing.

Stay of pending suits or other proceedings.

25. When an application has been made to a board under section 4, any suit or other proceedings then pending before a civil court in respect of any debt for the settlement of which application has been made shall not be proceeded with until the board has dismissed the application.

Report by board regarding sums due to Government.

26. Where in the course of an enquiry into an application made under section 4 a board finds that there is any sum owing to Government on account of loans advanced under the Agriculturists' Loans Act, 1884, or the Land Improvements Loans Act, 1883, or otherwise, the board shall report this fact to the Collector.

XII of 1884.
IX of 1883.

Computation of period of limitation for suits and proceedings.

27. (1) In calculating the period of limitation for any suit filed in, or proceedings before, a civil court for the recovery of a debt which was the subject of any proceedings under this Act, the time during which such proceedings were pending as well as the time taken for the obtaining of certified copies of the order of the board shall be excluded.

(2) The period during which proceedings under this Act have been pending including the actual period fixed in the agreement for payment of all the debts shall, in all suits filed or proceedings taken, in civil courts to recover debts, be excluded from computation under section 48 of the Code of Civil Procedure, 1908, or under the Indian Limitation Act, 1908. V of 1908. IX of 1908.

Members of the board deemed to be public servants.

28. The members of a board shall be deemed to be public servants within the meaning of the Indian Penal Code. XLV of 1860.

Power to make rules.

29. (1) The Local Government may make rules to carry out all or any of the purposes of this Act and not inconsistent therewith.

(2) In particular and without prejudice to the generality of the foregoing power, they shall have power to make rules—

(*a*) with reference to all matters expressly required or allowed by this Act to be prescribed;

(*b*) regulating the procedure before a board;

(*c*) prescribing the charges to be made by a board for anything done under this Act and the persons by whom and the manner in which such charges shall be paid;

(*d*) prescribing the records to be kept and the returns to be made by a board;

(*e*) prescribing the allowances, if any, to be paid to the chairman and members of a board;

(*f*) regulating the power of a board to summon parties and witnesses and the production of documents under section 13 and the grant of expenses to witnesses; and

(*g*) prescribing the place at which and the manner in which an agreement shall be registered under sub-section (2) of section 14.

(3) All rules made under this Act shall be subject to the condition of the rules being made after previous publication.

(4) In making any rule, the Local Government may direct that a breach thereof shall be punishable with fine which may extend to fifty rupees, and in case of a continuing breach with fine which may extend to ten rupees for every day during which the breach continues after the first breach.

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GOVERNMENT OF MADRAS.
LEGAL DEPARTMENT.

MADRAS ACT No. IV OF 1938

PASSED BY THE MADRAS LEGISLATURE.

[*Received the assent of the Governor-General on the 11th March* 1938, *first published in the "Fort St. George Gazette" on the 22nd March* 1938.]

An Act to provide for the relief of indebted agriculturists in the Province of Madras.

[22nd March 1938.]

WHEREAS it is expedient to provide for the relief of indebted agriculturists in the Province of Madras; It is hereby enacted as follows:—

CHAPTER I—PRELIMINARY.

Short title. 1. This Act may be called the Madras Agriculturists Relief Act, 1938.

Extent. 2. It extends to the whole of the Province of Madras.

Definitions. 3. In this Act, unless there is anything repugnant in the subject or context,

(i) 'person' means an individual and includes an undivided Hindu family, a marumakkattayam or aliyasantana tarwad or tavazhi, but does not include a body corporate, a charitable or religious institution or an unincorporated company or association;

(ii) 'agriculturist' means a person who—

(*a*) has a saleable interest in any agricultural or horticultural land in the Province of Madras, not being land situated within a municipality or cantonment, which is assessed by the Provincial Government to land revenue (which shall be deemed to include peshkash and quit-rent), or which is held free of tax under a grant made, confirmed or recognized by Government; or

(*b*) holds an interest in such land under a landholder under the Madras Estates Land Act, 1908, as tenant, ryot or under-tenure holder; or

(*c*) holds an interest in such land, recognized in the Malabar Tenancy Act, 1929; or Madras Act XIV of 1930.

(*d*) holds a lease of such land from any person specified in sub-clause (*a*), (*b*) or (*c*) or is a sub-lessee of such land:

Provided that a person shall not be deemed to be an ' agriculturist ' if he—

(A) has in either of the two financial years ending 31st March 1938 been assessed to income-tax under the Indian Income-tax Act, 1922, or under the income-tax laws of any Indian State, or foreign government; or Act XI of 1922.

(B) has within the two years immediately preceding the 1st October 1937 been assessed to profession-tax on a half-yearly income of more than three hundred rupees derived from a profession other than agriculture under the Madras District Municipalities Act, 1920, the Madras City Municipal Act, 1919, the Cantonments Act, 1924, or any law governing municipal or local bodies in any other Province in British India, any Indian State or any foreign State in India, or under the Madras Local Boards Act, 1920, in a panchayat which was a union before the 26th August 1930; or Madras Act V of 1920. Madras Act IV of 1919. Act II of 1924. Madras Act XIV of 1920

(C) has within the two years immediately preceding the 1st October 1937, been assessed to property or house tax in respect of buildings or lands other than agricultural lands, under the Madras District Municipalities Act, 1920, the Madras City Municipal Act, 1919, the Cantonments Act, 1924, or any law governing municipal or local bodies in any other province in British India or any Indian State, or under the Madras Local Boards Act, 1920, in a panchayat which was a union before the 26th August 1930, provided that the aggregate annual rental value of such buildings and lands, whether let out or in the occupation of the owner, is not less than Rs. 600; or Madras Act V of 1920. Madras Act IV of 1919. Act II of 1924. Madras Act XIV of 1920

adras Act of 1908.

(D) is a landholder of an estate under the Madras Estates Land Act, 1908, or of a share or portion thereof in respect of which estate, share or portion any sum exceeding Rs. 500 is paid as peshkash or any sum exceeding Rs. 100 is paid as quit-rent, jodi, kattubadi, poruppu or the like, or is a janmi under the Malabar Tenancy Act, 1929, who pays any sum exceeding Rs. 500 as land revenue to the Provincial Government.

adras Act IV of 1930.

Explanation.—The annual rental value of any building or land for the purposes of proviso (C) shall—

(1) where the assessment is based on the annual rental value, be deemed to be such value;

(2) where the assessment is based on the capital value, be deemed to be five per cent of the capital value; and

(3) in any other case, be deemed to be the value ascertained in the prescribed manner;

(iii) ' debt ' means any liability in cash or kind, whether secured or unsecured, due from an agriculturist, whether payable under a decree or order of a civil or revenue court or otherwise, but does not include rent as defined in clause (iv), or ' kanartham ' as defined in section 3 (*l*) (1) of the Malabar Tenancy Act, 1929;

adras Act IV of 30.

(iv) ' rent ' means rent as defined by the Madras Estates Land Act, 1908, or rent or michavaram as defined by the Malabar Tenancy Act, 1929, or quit-rent, jodi, kattubadi, poruppu or the like, payable to the landholder of an estate as defined by the Madras Estates Land Act, 1908, whether a decree or order of a civil or revenue court has been obtained therefor or not, and includes interest payable thereon but does not include costs incurred in

adras ct I of 08.

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adras Ct I of 1908.

respect of the recovery thereof through a civil or revenue court or the share of the land cess recoverable by the landholder under section 88 of the Madras Local Boards Act, 1920; and Madras Act XIV 1920.

(v) 'creditor' includes his heirs, legal representatives and assigns.

Certain debts and liabilities not to be affected.

4. Nothing in this Act shall affect debts and liabilities of an agriculturist falling under the following heads:—

(*a*) any revenue, tax or cess payable to the Provincial Government or any other sum due to them, by way of loan or otherwise;

(*b*) any revenue, tax or cess payable to the Central Government or any other sum due to them, by way of loan or otherwise;

(*c*) any tax or cess payable to any local authority or any other sum due to them, by way of loan or otherwise;

(*d*) any debt contracted on the security of house property alone in a municipality, a cantonment, or a panchayat which was a union before the 26th August 1930;

(*e*) any liability in respect of any sum due to any co-operative society, including a land mortgage bank, registered or deemed to be registered under the Madras Co-operative Societies Act, 1932, or any debt due to any corporation formed in pursuance of an Act of Parliament or of any special Indian law or Royal Charter or Letters Patent; Madras Act VI 1932.

(*f*) any liability arising out of a breach of trust;

(*g*) any liability in respect of maintenance whether under decree of court or otherwise;

(*h*) any debt or debts due to a woman on the 1st October 1937 who on that date did not own any other property, provided that the principal amount of the debt or debts did not exceed rupees three thousand.

Explanation.—For the purpose of this clause, the house in which the creditor woman lived, or any furniture therein, or her household

utensils, wearing apparel, jewellery, or such like personal belongings shall not be regarded as property.

(*i*) any wages due to an agricultural or other rural labourer.

Provided that where the liabilities mentioned in clause (*e*) arise by reason of an assignment to the co-operative society, such assignment has taken place before the 1st October 1937 or is an assignment to such society of a loan granted by a co-operative society.

Special provision for undivided Hindu families, etc.

5. Where an undivided Hindu family other than a marumakkattayam or aliyasantana tarwad or tavazhi is assessed to the taxes specified in provisos (A), (B) and (C) to section 3 (ii), or falls within the category of persons specified in proviso (D) to the same section, no person who was a member of the family on the 1st October 1937 shall be deemed to be an agriculturist for the purposes of this Act except section 13.

Sons and descendants of non-agriculturist members of Hindu families to be non-agriculturists.

6. Where in an undivided Hindu family other than a marumakkattayam or aliyasantana tarwad or tavazhi which is an "agriculturist" within the meaning of section 3 (ii), any member of the family is not an agriculturist, then, notwithstanding anything contained in section 3 (ii), none of his sons and descendants in the male line shall be deemed to be an agriculturist for the purposes of sections 7 to 12 and 19 to 27 of this Act.

CHAPTER II—SCALING DOWN OF DEBTS AND FUTURE RATE OF INTEREST.

Debts payable by agriculturists to be scaled down.

7. Notwithstanding any law, custom, contract or decree of court to the contrary, all debts payable by an agriculturist at the commencement of this Act, shall be scaled down in accordance with the provisions of this Chapter.

No sum in excess of the amount as so scaled down shall be recoverable from him or from any land or interest in land belonging to him; nor shall his property be liable to be attached and sold or proceeded

against in any manner in the execution of any decree against him in so far as such decree is for an amount in excess of the sum as scaled down under this Chapter.

Provision for debts incurred before 1st October 1932.

8. Debts incurred before the 1st October 1932 shall be scaled down in the manner mentioned hereunder, namely:—

(1) All interest outstanding on the 1st October 1937, in favour of any creditor of an agriculturist whether the same be payable under law, custom or contract or under a decree of court and whether the debt or other obligation has ripened into a decree or not, shall be deemed to be discharged, and only the principal or such portion thereof as may be outstanding shall be deemed to be the amount repayable by the agriculturist on that date.

(2) Where an agriculturist has paid to any creditor twice the amount of the principal whether by way of principal or interest or both, such debt including the principal, shall be deemed to be wholly discharged.

(3) Where the sums repaid by way of principal or interest or both fall short of twice the amount of the principal, such amount only as would make up this shortage, or the principal amount or such portion of the principal amount as is outstanding, whichever is smaller, shall be repayable.

(4) Subject to the provisions of sections 22 to 25, nothing contained in sub-sections (1), (2) and (3) shall be deemed to require the creditor to refund any sum which has been paid to him, or to increase the liability of a debtor to pay any sum in excess of the amount which would have been payable by him if this Act had not been passed.

Explanation.—Where a debt has been renewed or included in a fresh document in favour of the same creditor, the principal originally advanced by the creditor together with such sums, if any, as have been

subsequently advanced as principal shall alone be treated as the principal sum repayable by the agriculturist under this section.

Provision for debts incurred on or after 1st October 1932.

9. Debts incurred on or after the 1st October 1932 shall be scaled down in the manner mentioned hereunder, namely:—

(1) Interest shall be calculated up to the commencement of this Act at the rate applicable to the debt under the law, custom, contract or decree of Court under which it arises or at five per cent per annum simple interest, whichever is less and credit shall be given for all sums paid towards interest, and only such amount as is found outstanding, if any, for interest thus calculated shall be deemed payable together with the principal amount or such portion of it as is due:

Provided that any part of the debt which is found to be a renewal of a prior debt shall be deemed to be a debt contracted on the date on which such prior debt was incurred, and if such debt had been contracted prior to the 1st October 1932, shall be dealt with under the provisions of section 8.

(2) Subject to the provisions of sections 22 to 25, nothing herein contained shall be deemed to require the creditor to refund any sum which has been paid to him or to increase the liability of the debtor to pay any sum in excess of the amount which would have been payable by him if this Act had not been passed.

Exceptions.

10. (1) The provisions of sections 8 and 9 shall not apply to any person who, though an agriculturist as defined in section 3 (ii), did not on the 1st October 1937, hold an interest in, or a lease or sub-lease of, any land as specified in that section.

(2) Nothing contained in sections 8 and 9 shall affect—

(i) any mortgage by virtue of which the mortgagee is in possession of the property mortgaged, where no rate of interest is stipulated as due to the mortgagee, or

(ii) any liability for which a charge is provided under section 55, clause 4, sub-clause (*b*) of the Transfer of Property Act, or

(iii) any liability in respect of any sum due to any public company as defined in the Indian Companies Act, 1913, or to any scheduled bank as defined by section 2 (*e*) of the Reserve Bank of India Act, 1934, if the interest payable in respect of the liability is not more than nine per cent per annum.

Provision as to costs, etc., in certain cases.

11. Where a debt payable by an agriculturist includes any sum decreed as costs by any Court, or sums lawfully expended by a mortgagee or other person in order to preserve the property mortgaged, such sum or sums shall be recoverable in addition to the sum recoverable under the provisions of sections 8 and 9.

Rate of interest payable by agriculturists on old loans.

12. All debts which have been scaled down under the provisions of this Act shall, so far as any sum remains payable thereunder, carry from the date up to which they have been scaled down interest on the principal amount due on that date at the rate previously applicable under law, custom, contract or otherwise:

Provided that it shall not in any case exceed $6\frac{1}{4}$ per cent per annum simple interest, that is to say, one pie per rupee per mensem, simple interest, or one anna per rupee per annum simple interest.

Rate of interest payable by agriculturists on new loans.

13. In any proceeding for recovery of a debt, the court shall scale down all interest due on any debt incurred by an agriculturist after the commencement of this Act, so as not to exceed a sum calculated at $6\frac{1}{4}$ per cent per annum, simple interest, that is to say, one pie per rupee per mensem simple interest, or one anna per rupee per annum simple interest:

Provided that the Provincial Government may, by notification in the Official Gazette, alter and fix any other rate of interest from time to time.

Explanation.—For the purposes of this section, the definition of ' agriculturist ' in section 3 (ii) shall be read as if—

(i) in proviso (A) to that section, for the expression " the two financial years ending 31st March 1938," the expression " the two financial years ending on the 31st March immediately preceding the date on which the debt is incurred " were substituted; and

(ii) in provisos (B) and (C) to that section, for the expression " the two years immediately preceding the 1st October 1937," the expression " the two years ending on the 31st March or the 30th September (whichever is later) immediately preceding the date on which the debt is incurred " were substituted.

Separation of share of debt in particular cases.

14. Notwithstanding anything contained in section 3 (ii) and subject to the provisions of sections 5 and 6, where in a Hindu family, whether divided or undivided, some of the members liable in respect of a family debt are not agriculturists while others are agriculturists, the creditor shall, notwithstanding any law to the contrary, be entitled to proceed—

(*a*) against the non-agriculturist member or members and his or their share of the family property, to the extent only of his or their proportionate share of the debt ; and

(*b*) against the agriculturist member or members and his or their share of the family property, to the extent only of his or their proportionate share of the debt which shall be scaled down in accordance with the provisions of this Act.

CHAPTER III—ARREARS OF RENT.

Conditional discharge of arrears of rent due to landholders, etc.

15. (1) All rent payable by an agriculturist to a landholder or an under-tenure holder under the Madras Estates Land Act, 1908, or to a janmi or intermediary under the Malabar Tenancy Act, 1929, which has accrued for the fasli year 1345 and prior faslis and which is outstanding on the date of the commencement of this Act shall be deemed to be discharged

Madras Act of 1908.
Malabar Act XIV of 1930.

whether the rent be due as such or whether a decree has been obtained therefor:

Provided that where the person liable to pay rent (hereinafter in this section referred to as 'tenant') does not, on or before the 30th September 1939, pay up all arrears of rent accrued in respect of any holding for faslis 1346 and 1347, the arrears of rent for fasli 1345 and prior faslis which were outstanding in respect of the same holding on the date of the commencement of this Act shall be deemed to be discharged only in the same proportion as the rent due for faslis 1346 and 1347 which is paid up by the ryot or tenant bears to the rent due for those two faslis:

Provided further that no tenant shall be entitled to the benefit of this section unless he shall have paid in respect of the holding, the rent due for fasli 1347 on or before the 30th September 1938.

Explanation.—In cases governed by the Malabar Tenancy Act, 1929, any reference to a fasli year in this Chapter shall be deemed to be a reference to the agricultural year as defined in the Malabar Tenancy Act, 1929, which contains the greater part of the fasli year. Madras Act XIV of 1930 Madras Act XIV of 1930

Illustrations.—(*a*) A ryot or tenant is in arrear at the commencement of this Act in respect of rent for a particular holding for fasli 1345 and prior faslis in the sum of Rs. 500 and is in arrear on that date in respect of rent for the same holding for faslis 1346 and 1347, the rent for each fasli being Rs. 100. Within the 30th September 1938 he pays the rent for fasli 1347 and within 30th September 1939, he pays the rent for fasli 1346. The arrears of rent of Rs. 500 which were outstanding at the commencement of this Act will be deemed to be discharged.

(*b*) A sum of Rs. 500 representing the arrears of rent in respect of a particular holding for fasli 1345 and prior faslis and the rents for faslis 1346 and 1347 for that holding are in arrear and outstanding at the commencement of this Act, the rent for each fasli being Rs. 100. The ryot or tenant pays the landholder within 30th September 1938 the rent for fasli 1347 but fails to pay within the 30th September 1939 any

portion of the rent for fasli 1346. Only a sum of Rs. 250 or one half of the rent of faslis prior to and inclusive of fasli 1345 will be deemed to be discharged.

(*c*) In the same case, the ryot or tenant does not pay the landholder within the 30th September 1938 the whole of the rent for fasli 1347. No portion of the arrears for fasli 1345 and prior faslis is discharged, and the ryot loses the benefit of this section.

(*d*) In the same case, the ryot or tenant pays the landholder within 30th September 1938 the rent for fasli 1347, but pays within 30th September 1939 only Rs. 50, being half the rent for fasli 1346. He has thus paid Rs. 150 out of Rs. 200 being the rent of both the faslis 1346 and 1347, before 30th September 1939. A sum of Rs. 375, or three-fourths of the rent of faslis prior to and inclusive of fasli 1345 will be allowed to be discharged.

(2) Nothing contained in sub-section (1) shall be deemed to effect a discharge of arrears of rent which accrued due for fasli 1345 if proceedings for the recovery of such arrears stood stayed by an Act of the Legislature or by an order of a Court or if such proceedings, if instituted, would have stood so stayed. But the arrears of rent for fasli 1345 shall not be recoverable until the 30th September 1938 or if the rent for fasli 1347 is paid before that date, until the 30th September 1939.

(3) Notwithstanding anything to the contrary in any agreement or in section 64 of the Madras Estates Land Act, 1908, any payment of rent made by a tenant after the commencement of this Act shall be credited towards the rent due by him for fasli 1347 in the first instance and for fasli 1346 in the next instance, and not towards the rent due for any previous fasli.

Madras Act of 1908.

(4) Every tenant shall be at liberty to pay into Court any amount towards the rent due or claimed to be due by him for faslis 1347 or 1346 or both and thereupon the Court shall, after notice to the landholder, under-tenure holder, janmi or intermediary, as the case may be, apply the provisions of this Act and determine whether the whole or only a portion of the rent for the faslis aforesaid has been paid by the

tenant, and also the extent of the remaining liability, if any, of the tenant for rent under the provisions of this Act.

Explanation.—For the purposes of this sub-section, 'Court' shall mean the Collector referred to in section 209 (1) of the Madras Estates Land Act, 1908, or the Court referred to in section 3 (*b*) of the Malabar Tenancy Act, 1929, as the case may be. Madras Act I of 1908. Madras Act XIV of 1930

Landholder to be entitled to recover land cess and costs.

16. Notwithstanding anything contained in this chapter, a landholder or an under-tenure holder under the Madras Estates Land Act, 1908, or a janmi or intermediary under the Malabar Tenancy Act, 1929, shall be entitled to recover, in addition to any sum recoverable by him under section 15— Madras Act of 1908. Madras Act XIV of 1930

(*a*) the land cess, if any, paid by him and recoverable under section 88 of the Madras Local Boards Act, 1920; Madras Act XIV of 1920

(*b*) the land revenue and water cess, if any, paid by him to the Provincial Government which the tenant was bound to pay by virtue of any law, custom, contract or decree of court governing the tenancy; and

(*c*) the costs awarded to him in any decree for rent obtained by him.

Extension of limitation for suits, etc., for rent in certain cases.

17. Notwithstanding anything contained in the Madras Estates Land Act, 1908, or the Malabar Tenancy Act, 1929, or in any law of limitation or procedure in force for the time being, no suit or execution proceedings in respect of arrears of rent accrued for fasli 1345 or any prior fasli which, under the existing law, would become barred between the 1st October 1937 and the 30th September 1938, shall be so barred and the landholder, under-tenure holder, janmi or intermediary, as the case may be, shall be entitled to file a suit or institute execution proceedings for recovery thereof, on or before the 31st December 1938; and in cases where the rent due for fasli 1347 has been paid before the 30th September 1938, the period of limitation for any suit or execution proceedings for the recovery of any arrears of rent which, under the existing law, would become barred between the 1st October 1937 and the 30th September 1939, shall stand extended until the 31st December 1939: Madras Act I of 1908. Madras Act XIV of 1930

Provided that where on the 31st December 1938 or the 31st December 1939, as the case may be, an application under sub-section (4) of section 15 is pending in any Court, the period of limitation prescribed by this section shall stand extended until the expiry of a period of two months from the date of the order on such application.

CHAPTER IV—PROCEDURE AND MISCELLANEOUS.

Provision as to costs in certain cases.

18. (1) Where a decree is passed against an agriculturist in a suit filed on or after the 1st October 1937, the Court shall allow only such costs as would have been allowable if the suit had been filed for the amount of the debt as scaled down in accordance with the provisions of this Act, and where in any such case a decree has been passed before the commencement of this Act, the Court shall, on application by the agriculturist, amend the decree accordingly.

(2) Nothing in sub-section (1) shall apply to any suit instituted on or after the 1st October 1937 and before the commencement of this Act in respect of a claim which would be barred by limitation before the 1st April 1938.

Amendment of certain decrees.

19. Where before the commencement of this Act, a Court has passed a decree for the repayment of a debt, it shall, on the application of any judgment-debtor who is an agriculturist or in respect of a Hindu joint family debt, on the application of any member of the family whether or not he is the judgment-debtor or on the application of the decree-holder, apply the provisions of this Act to such decree and shall, notwithstanding anything contained in the Code of Civil Procedure, 1908, amend the decree accordingly or enter satisfaction, as the case may be:

Provided that all payments made or amounts recovered, whether before or after the commencement of this Act, in respect of any such decree shall first be applied in payment of all costs as originally decreed to the creditor.

Stay of execution proceedings.

20. Every court executing a decree passed against a person entitled to the benefits of this Act, shall on application, stay the proceedings until the court which passed the decree has passed orders on an application made or to be made under section 19:

Provided that where within 60 days after the application for stay has been granted the judgment-debtor does not apply to the court which passed the decree for relief under section 19 or where an application has been so made and is rejected, the decree shall be executed as it stands, notwithstanding anything contained in this Act to the contrary.

Explanation.—The expression "the court which passed the decree" shall have the same meaning as in the Code of Civil Procedure, 1908. Act V of 1908.

Adjudications in insolvency.

21. Nothing contained in this Act shall apply to the debts payable by any person who has been adjudicated an insolvent, if prior to the coming into force of this Act, a dividend has been declared out of his assets. If a dividend has not been so declared, this Act shall apply to the debts payable by such person if he would have been an agriculturist within the meaning of this Act but for his adjudication in insolvency.

Special provision in the case of certain sales of movable property.

22. Where, in execution of any decree, any movable property of an agriculturist has been sold on or after the 1st October 1937, any judgment-debtor may apply to the court for an order that the provisions of section 8 or 9, as the case may be and of sections 11 and 12 be applied to the decree, and the court, shall, if satisfied that the applicant is an agriculturist entitled to the benefits of those sections, apply the same and order the decree-holder to refund any sum received by him on or after the 1st October 1937 in excess of the amount to which he would have been entitled if the property had not been sold:

Provided that no such order shall be made without notice to the decree-holder and without affording him an opportunity to be heard in the matter.

Sales of immovable property to be set aside in certain cases.

23. Where in execution of any decree any immovable property, in which an agriculturist had an interest, has been sold or foreclosed on or after the 1st October 1937, then, notwithstanding anything contained in the Indian Limitation Act, 1908, or in the Act IX of

Code of Civil Procedure, 1908, and notwithstanding that the sale has been confirmed, any judgment-debtor, claiming to be an agriculturist entitled to the benefits of this Act, may apply to the court within 90 days of the commencement of this Act to set aside the sale or foreclosure of the property, and the court shall, if satisfied that the applicant is an agriculturist entitled to the benefits of this Act, order the sale or foreclosure to be set aside, and thereupon the sale shall be deemed not to have taken place at all:

Provided that no such order shall be made without notice to the decree-holder, the auction purchaser, and other persons interested in such sale or foreclosure and without affording them an opportunity to be heard in the matter.

Consequential provision on setting aside of sale.

24. Where a sale is set aside under the preceding section, a purchaser shall be entitled to an order for repayment of any purchase money paid by him against the person to whom it has been paid:

Provided that no poundage shall be payable in respect of any such sale and provided further that where poundage has been collected the court shall direct the same to be refunded.

Alienations by debtor.

25. All alienations of immovable property made by an agriculturist debtor on or after the 1st October 1937 shall be invalid as against every creditor whose sale in execution or foreclosure decree has been set aside under section 23 or who became entitled to rateable distribution of the proceeds of such sale under section 73 of the Code of Civil Procedure, 1908.

District Collector to furnish information as to certain facts.

26. Any creditor may apply to the Collector of the district in which the creditor believes his debtor to have been or to be assessed to income-tax in terms of proviso (A) to section 3 (ii) or to profession, property or house tax under the Cantonments Act, 1924, in terms of provisos (B) and (C) to that section, for information as to the above facts and the Collector shall thereupon ascertain such information and grant to such creditor a memorandum in the prescribed form as to whether the debtor has been so assessed to income-tax or to profession, property or house tax. Such memorandum shall be received in every court as evidence of the facts stated therein.

Executive authorities of local bodies to furnish information as to certain facts.

27. Any creditor may apply to the executive authority of a municipality, the president of a local board or the Revenue Officer of the Corporation of Madras for information as to whether his debtor was or is assessed to profession, property or house tax in terms of provisos (B) and (C) to section 3 (ii), and the executive authority, president or Revenue Officer shall thereupon grant to such creditor a certificate in the prescribed form as to whether the debtor named in the application has been so assessed to profession, property or house tax. Such certificate shall be received in every court as evidence of the facts stated therein.

Power to make rules.

28. (1) The Provincial Government may make rules for carrying into effect the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the Provincial Government may make rules—

(*a*) in regard to any matter which is required to be prescribed by this Act;

(*b*) prescribing the form of, and the fees to be paid in respect of, applications under this Act; and

(*c*) for removing any difficulty in giving effect to the provisions of this Act:

(3) All rules made under this section shall be consistent with the provisions of this Act. They shall be published in the Official Gazette and upon such publication shall have effect as if enacted in this Act.

The
Madras Agriculturists' Relief Bill

MEMORANDUM

By

The Hon'ble V. Ramadas Pantulu,
(President, Madras Provincial Co-operative Union)

Bowed by the weight of centuries he leans
Upon his hoe and gazes on the ground;
The emptiness of ages on his face
And on his back the burden of the world.

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The Madras Agriculturists' Relief Bill

BY THE HON'BLE V. RAMADAS PANTULU

It is the bonds of debt which shackle Agriculture. It is Usury—the rankest, most extortionate, most merciless Usury—which eats the marrow out of the bones of the raiyat and condemns him to a life of penury and slavery, in which not only is economic production hopeless, but in which also energy and will become paralysed and man sinks down beaten into a state of resigned fatalism, from which hope is shut out and in which life drags on wearily and unprofitably as if with no object in view. There is no use in denying the fact. *H. W. Wolff—Co-operation in India.*

Is this measure necessary and justifiable ?

1. The first question that has to be answered in connection with this measure is whether it is necessary and expedient for the Government to embark on legislation of so drastic a character, which abrogates obligations legally incurred and even judicially upheld? The answer to this question depends upon the answer to another question, namely, whether the burden of rural debt has assumed such alarming proportions and disquieting aspects as to cause a violent dislocation of our rural economy to the prejudice of national interests and to become a menace to our social and political order? If it has assumed such proportions and aspects, the right of the State to intervene cannot easily be denied. I believe that there can be no serious difference of opinion regarding the gravity of the situation created by the accumulation of chronic debt (mostly unproductive) of the agriculturists in South India. Periodical investigations into the volume of such debt have disclosed that it has been growing rapidly. The Madras Provincial Banking Enquiry Committee estimated it in 1930 at Rs. 150 crores. Mr. Sathianadhan, the Special Officer appointed by the Government, who reported in 1935 estimated it at Rs. 200 crores. Anybody who claims to possess first-hand knowledge of our rural economy must admit that the agriculturist is weighed down and is groaning under the burden of debt which is too heavy for him to bear. Unless the ruinous course which the debt is running is arrested, I feel that it is bound to lead to economic paralysis, if not to economic death, of those who are engaged in raising our national wealth from the soil. Chronic indebtedness leads to low agricultural production which in its turn leads to increased indebtedness.

The effect of debt on agriculture is thus described by the Madras Provincial Banking Enquiry Committee in their report

published in 1930 : " The effect of the debt undoubtedly is, however, that the ryot does not get such a return from the land as to induce him to make serious attempts to grow a bigger crop. Even apart from the general demoralizing effect of being constantly in debt to another, the fact that another person will get the lion's share of the produce will damp the ardour of the most enthusiastic. The debt thus results in inefficiency and the effect it has on the ryot's credit means that he has not and cannot easily get enough money to put into cultivation to yield a first-class crop ; seed, manuring, cattle and implements must be reduced to the cheapest that can be got." (page 81) No Government can look upon such a development with equanimity. The low economic efficiency of the ryot will lead to a deterioration of the soil and impair the productivity of the land. Land is a national asset and the State is bound to preserve it in an efficient condition and in a sound economic state for the benefit of the future generations. So, if indebtedness has a direct bearing upon productivity, it ceases to be a matter merely between creditor and debtor.

2. But there are other and even more serious considerations which the State should take note of. British Statesmen and Administrators of the past were fully alive to such considerations. Sir Edward Maclagan, the Chairman of the famous Committee which produced the classic report on Co-operation in India and later Governor of the Punjab, was one of those far-seeing administrators who drew pointed attention to the dangers involved in allowing the rural debt to accumulate unchecked. He wrote so early as 1911 as follows : " It is necessary for the Government, not only in the interests of the people but also in its own interests, to see that the evil does not spread too far and that its consequences are mitigated as much as posssible. It must, in the first place be remembered that if a large body of people is oppressed by a load of debt, they must necessarily become dispirited and discontented not only with the load of the debt itself, but also with the classes to whom debt is owing and with the agencies to whom the severity of the debt is attributed. It is further impossible for the Government to view with equanimity any large increase in wasteful and unnecessary expenditure by which the balance at the disposal of the peasant for improving agriculture is seriously reduced. There are also certain consequences of indebtedness such as mortgage or sale of land which lead directly to class discontent, and occasions will arise when the intervention of Government is necessary to prevent the growth of a large body of discontented agriculturists who have lost possession of their ancestral properties." He proceeded to illustrate these dangers

thus: "The Sonthal rebellion of 1855 was due to an outburst of the peasant debtors against their creditors and there was a good deal of the same sort of thing in the United Provinces during the course of the Mutiny in 1857. The same cause was the origin of the Deccan riots of 1875 and of the riots at Ajmer in 1891. It was therefore held by many competent authorities that the constant transfer of lands from the peasants to the creditor class entailed a political danger and that the Government could not afford to wait till the danger came to a crisis."

The situation has grown much worse since 1911 and the case for State interference has become much stronger, since Sir Edward Maclagan expressed the opinion quoted above.

3. So much for the situation that calls for the adoption of effective State measures for reduction of the burden of rural debt. The next question that arises is that if the intervention of the Legislature is necessary, is it not possible to achieve the end in view by a less drastic measure which does not interfere so violently with the relations between the lender and the debtor, which have their origin under well-established principles of the law of contract. Milder methods of various kinds were tried in the past. Very wide discretionary powers were vested in the Courts by the Usurious Loans Act and by the Indian Contract Act, to relieve the debtors from the consequences of hard bargains. Measures were also enacted to reduce debt by voluntary conciliation, mediation, arbitration and so forth. Even direct loaning by the Government to relieve agricultural distress has been tried. But they made no impression on the problem as a whole. The assertion that is made in the Statement of Objects and Reasons annexed to the Bill, namely, that "conciliation and other voluntray methods have failed and the adoption of principles of compulsion has become necessary" is, therefore, fully justified.

Plea of Hardship to some Creditors.

4. Before we discuss the provisions of the Bill in detail, we must realise that the object of the Bill is essentially to rehabilitate agriculture which is the basic industry of the Province and not so much to give relief to individual agriculturists who have run into debt. The land is the source from which not only the food for the people but also the grist for the factories and mills is raised. Again, the depression of the agricultural industry, as a result of indebtedness, reacts very unfavourably on other sections of the community as well, and with a depressed agriculture no part of the national economy can be sound or can thrive. In any scheme which rescues the basic industry of the nation from such a plight, hardship to individuals

must give place to claims of general national welfare. That the Bill works hardship to some, perhaps many, individuals cannot be denied. But the interests of such persons must give way to the general welfare of the community.

There can be no common ground for debate on the merits of the Bill between its supporters and those who deny that the situation created by the accumulated and ever increasing rural debt is one of national concern calling for a drastic remedy. They differ on the very axioms and postulates on which the Bill is constructed. The numerous communications which have appeared in the Press since the publication of the Bill aim at drawing attention to the hardship that the Bill would cause to individuals. Without disputing the accuracy of the facts stated therein, the objections raised by the correspondents can be successfully met by the over-riding considerations of national interest to which individual interests should be subordinated.

Persons who come under the Bill.

5. We shall now examine the provisions of the Bill. The Bill, broadly speaking, applies only to the agricultural classes who may be said to be engaged in raising agricultural produce from land and who do not pursue other avocations to supplement substantially their income from land. Ryots holding land on a patta from Government, or under a landholder under the Madras Estates Land Act, or who hold an interest recognised by the Malabar Tenancy Act, or persons holding a lease of agricultural land on 1st October 1937 from those persons, are all brought within the scope of the Bill. But this definition of agriculturist is considerably narrowed by excluding from its scope persons who pay any income-tax or profession tax of more than Rs. 0-8-0 per half year, and persons assessed to tax on non-agricultural land or house whose annual rental value is not less than Rs. 600. In regard to the last, *i.e.*, house owners, the debtor's residential building must be excluded. Those who build houses for investment alone should be excluded. Landholders who pay a peishkush of Rs. 500 and inamdars who pay a jody or quit rent of over Rs. 100 and Jammies who pay land revenue of over Rs. 500 are also excluded from the scope of the Bill. These exemptions do not call for any serious comment except in regard to one or two particulars. The exclusion of persons who pay a profession tax of over Rs. 0-8-0 per half year, who would otherwise fulfil the requirements of the definition of an agriculturist is not justifiable. There are many genuine agriculturists who pursue trifling occupations in the neighbouring

urban areas and are assessed to a small profession tax. It would be a great hardship to them to be denied the benefits of the Bill. They must have a substantial non-agricultural income. In some districts no profession tax is imposed in villages while in some districts it is imposed arbitrarily. There is no system. This exemption may be deleted. If the exemption is to be retained, I feel that the limit of profession tax must be raised from over Rs. 0-8-0 per half year to at least over Rs. 3 per half year. We must remember that the minimum of taxable non-agricultural income under the Incometax Act is Rs. 2,000 per annum. So, we should allow at least over Rs. 1,200 per year for those who pay profession tax,

6. The definition of agriculturist is seriously criticised by numerous correspondents who range themselves against the Bill. One of the main points of attack of these critics is that the larger landowners like mirasdars owning several *velis* of lands in the Tanjore and Trichinopoly Districts and large ryotwari pattadars elsewhere, who derive handsome incomes from lands and who can pay their debts should not have been brought within the scope of the Bill. This objection naturally comes from their creditors. It is alleged by these creditors that loans were sometimes contracted by these big mirasdars for wasteful and unproductive purposes and do not therefore deserve protection. In such cases, judged from the standpoint of sound national economy the creditors who lent for such purposes must be treated as persons in *pari-delicto*. They should not plead their own uneconomic and unsocial act as a reason for fair treatment to them. If those mirasdars were compelled to borrow for necessary and unavoidable purposes then they need protection, for their lands did not yield enough margin to them.

The test employed by the Bill is whether the persons who are brought within the scope of the Bill are those who are engaged in the service of the nation in regard to raising food from land. The mirasdars and pattadars satisfy that test. Again, it is a notorious fact that many of these mirasdars are largely indebted. Any enquiry into individual cases with a view to ascertain whether they are or are not in a position to discharge all their debts will be both impracticable and fruitless. Generally speaking, the criterion adopted by the Bill, namely, of bringing within its scope and helping all persons engaged in the occupation of raising national wealth from land, is right. Small landholders and Inamdars deserve the same protection and their inclusion in the Bill is right. It is asked why land-holders who pay a peishkush of over Rs. 500 and Inamdars who pay a quit rent of over Rs. 100 are excluded from the benefits of

this Bill and treated differently. The obvious answer is they are generally speaking not directly engaged in the occupation of raising food from land but are middlemen who collect rents from those who are so occupied.

What debts come under the Bill.

7. The next provision of the Bill which requires examination is the definition of *debt*. Debt is so defined as to comprise almost every liability of an agriculturist, whether in cash or kind, secured or unsecured, payable under a decree or order of a Court or on a bond or account or any other security. But it excludes from its scope *rent* which is dealt with separately by clause 12. Debts due under usufructuary mortgages which do not provide for any interest are excluded from the operation of the Bill. So also, liabilities of all kinds to Central and Provincial Governments, local authorities, debts contracted on the security of house property in municipalities, cantonments and old union panchayats and debts due to co-operative credit societies, including land mortgage banks, and to joint stock banks, and shares of debts due by members of joint Hindu families to the extent that any members of such family pursue urban occupations and get subsidiary incomes and pay incometax or other kinds of tax specified, are excluded.

Sub-clause (*d*) of this clause excludes a debt contracted on the security of house property in a village which was a Panchayat *union* before the 26th August 1930. But old Union Panchayats which may have now become municipalities comprised groups of villages which may or may not now be covered by Village Panchayat Boards, and the exclusion of debt secured on house property in those old village areas which are now outside the municipalities will cause hardship and the clause requires amendment in this respect.

The definition of debt is wide enough to include surety debts. If a non-agriculturist stands surety for an agriculturist, his obligations arising from suretyship will be " debts." If the agriculturist's debt is scaled down or wiped out, his surety, who is a non-agriculturist, has evidently to pay to the creditor the full amount of the debt, minus what the agriculturist pays. From a true construction of the Statute, it seems to me that he cannot recover his loss from the agriculturist. He loses his money for having gone to the rescue of the agriculturist. I wonder whether his case does not require looking into. It may be argued that if he lent money to the agriculturist he would have lost it under the Bill and it may be asked why should he

be treated better simply because his obligation arises out of surety-ship. But there is a snag in the argument. I feel that this is a matter which requires sympathetic examination by the Select Committee.

8. The combined effect of the definitions of "agriculturist" and "debt" in the Bill on the volume of debt that will come within its scope cannot be estimated with any approach to precision. But one can generally see that a good deal of the estimated debt of Rs. 200 crores of this Province stands out of the Bill altogether. An enquiry into this question has a direct bearing on the amount of the debt that will have to be discharged after being compulsorily scaled down under the provisions of this Bill, and the amount of credit that will have to be made available to the debtors to discharge that debt. In making a rough estimate of the debt scaled down in terms of the Bill I am disposed to hazard an opinion that it will not be much above Rs. 20 or 25 crores. If so, it should not be impossible for the Government to formulate some suitable scheme to link up the debtors, who obtain substantial relief under this Bill, with banks, commercial or co-operative, and other credit agencies. In dealing with the reactions of this Bill on the future of credit to agriculturists, I shall deal with the question a little more in detail.

Process of compulsory scaling down—The central clause of the Bill.

9. The central and most drastic clause in the Bill, and naturally the one that has evoked the fiercest opposition from the critics of the Bill, is clause 8 which provides for compulsory scaling down of the debts. The net effect of this long clause, read as a whole, is that no creditor can recover anything more than the principal amount outstanding on 1st October 1937 from an agriculturist as defined by the Bill. In other words, all arrears of interest outstanding on 1st October 1937 are wiped out, or to use legal language are deemed to be discharged. This does not of course mean that every creditor can recover the principal amount of the loan outstanding on that date. While no creditor can recover more than the principal amount outstanding on that date, some can recover nothing and others only some portion of it. It happens this way. For the purpose of this clause, creditors who stipulated for simple interest of over 9 per cent or for compound interest are given a differential treatment under the Bill from those who stipulated for a lower interest and no compound interest. In the case of the latter, who certainly belong to the more humane class of creditors and who deserve some consideration for their less anti social conduct, they can collect the whole of the principal outstanding on 1st October 1937, although they might have collected

already many times the principal by way of interest. In the case of the former, if they have collected before 1st October 1937 from their debtors in all an amount equal to twice the principal sum lent, they can recover nothing more and the entire amount of principal outstanding on that date is also deemed to be discharged. If the total amount so collected by them falls short of twice the principal amount outstanding on that date, only the balance necessary to make up the shortage or, the principal amount of the loan, whichever is less, can be collected. The net effect of this clause is, as I have said before, the most fortunate creditor, that is, who stipulated for interest of not more than 9 per cent and no compound interest, can recover the principal amount outstanding on 1st October 1937 in full, the next best will recover a portion of the principal only, and the last in rank nothing at all.

10. How the principal amount referred to in this clause is to be ascertained is a matter which affects creditors and debtors very vitally. The principal amount contemplated is the principal originally advanced and such sums as have been subsequently advanced as principal whether the liability arises under a security or a decree. In other words, all securities as well as decrees of courts will be reopened without any limit to the period of the continuance of the loan. There is a large volume of opinion in favour of limiting the period beyond which the enquiry should not go. It is also true that it may oftentimes be difficult to ascertain the principal when the decrees or bonds do not disclose it. In such cases it will be desirable to treat the amount appearing in the earliest document as principal and shut out oral evidence which will open flood gates of purgery. But much of the benefit conferred by the clause on debtors will be curtailed if renewals of original bonds effected before a certain period are treated as providing the test for ascertainment of the principal.

The real question that has to be tackled in connection with this clause is whether the creditors should be disallowed all interest outstanding on 1st October 1937 or whether they should get some reasonable interest. My own personal view is there is no strong case for any arrears of interest to be allowed to the creditors. Still, I must say that the general feeling in the public minds is that disallowance of all such arrear interest is too drastic and unjust. It is suggested by some that six per cent may be allowed for the period anterior to 1st October 1937 also, as it is considered to be a just and reasonable rate for the future. If, however, a concession is made to public opinion in the matter, I would put the rate at three per cent, subject of course to the operation of the rule of not more than twice the principal in all, or to be brief "*Damdupat.*"

20. There is a widespread belief that credit to agriculturists will be drastically curtailed by this Bill and in future the agriculturists will find it almost impossible to raise capital necessary for the agricultural industry. To some extent thus apprehension may prove true in the earlier stages, due to the reactions which the new law is bound to produce on capitalistic lenders. But the law of demand and supply of credit will not be destroyed and people with money to lend will extend credit. The bill ensures a rate up to six per cent interest on future loans; the scaling-down of the existing debt improves the economic position of the borrower and enhances the margin of security that he can offer. The instinct of the lender will still be there and I do not see why he should hoard his money instead of lending it. Hoarding is a perilous operation; while it yields no income involves the danger of the principal being lost. Moreover, if the man with spare wealth does not lend to individual borrowers, he will at least invest the money in banks—joint stock or co-operative. Thus the savings of the community will be transformed, through the banks, into capital and made available for credit. The Government must take full advantage of the situation and link up the creditors who suffer by the operations of this Bill and the debtors who benefit thereby with banking and other credit institutions of the country. I suggest to the Government to convene a conference of bankers, joint stock and co-operative, and evolve a constructive programme in this connection. As I have already stated, the debt which is touched by the Bill, when scaled down, may amount to only about Rs. 20 or 25 crores. It should not be difficult for the Government to formulate definite schemes for satisfying such creditors, if necessary. Probably they have such schemes ready. An early pronouncement of their nature will enhance public confidence in regard to future credit.

Economic Rehabilitation of Agriculturists.

21. There is no one in this country who holds the view that relief of indebtedness by a measure like this or even a more drastic measure, will in itself be enough to bring about the economic rehabilitation of the agriculturists. The main cause of indebtedness is poverty. I have often read in publications on Indian rural economics, in official despatches and reports of committees that the chronic poverty of the masses is due to indebtedness. I entirely disagree with this view. I think that indebtedness is mainly the *result* and not the *cause* of poverty. Most people borrow not because they *can* but because they *must* in order to live. So, any economic reform for the rehabilitation of the masses must aim not merely at scaling down or

even wiping out debts, for they will soon begin to incur fresh debts, if facile credit is available and will relapse into their old condition. A lasting remedy for the problem of indebtedness is the improvement of the income of the agriculturists and other sections of the people. There are various ways in which the Government should attempt this constructive economic reform. Something must be done to raise commodity prices when they are depressed. Concerted action on the part of the Provincial Governments and the Central Government is necessary. State action to secure for cash crops like groundnut better prices in the internal and external markets is a very necessary measure of reform. Government can after all tranfer wealth from one section to another and cannot create it. Low prices transfer wealth legitimately due to producers of food to the men with fixed investments and cash emoluments. That can be prevented only by raising price levels.

The Provincial Government must also seriously undertake irrigation projects and if necessary borrow largely for productive capital expenditure. More money should be spent on productive public works, for such expenditure not only improves the income of those who come within the beneficial effects of such works but will also to some extent relieve unemployment. So, the economic uplift of the masses by processes which put more money into their pockets is very important and measures for relieving indebtedness can only succeed if the margin between the income from land and cost of production is improved.

Example of Other Countries.

22. Recently many countries in Central Europe have adopted several measures for relief of indebtedness. Sgr. C. Costanzo contributed to the *International Review of Agriculture* a series of articles between January and April 1937, in which he made a general survey of the question and also gave detailed information about the measures adopted by several countries. On a careful reading of these articles I find that the nature of debt of the South Indian peasant and the conditions of South Indian rural economy are very different from those of the western countries discussed in those articles. The time and the circumstances under which those measures were adopted also differ from ours. Much of the debt of Central European farmers was contracted for the reconstruction of farms devastated by the war, for rebuilding roads, bridges, houses, plantations and so on. The South Indian agriculturist borrowed more in the boom period—in the pre-depression period—and borrowed less in the post-depression period.

His pre-depression debt was too heavy to liquidate even with the high prices of land and its products in the boom period. The case is quite different with the European farmers, with whose indebtedness their Governments had to deal.. A detailed study of the measures adopted in those countries shows how different their conditions were. I shall reserve the examination of this question in detail to another occasion. The following passage from the articles referred to will indicate the nature of debt contracted and of the relief required in those countries:

"The characteristic feature of European economic life, in the decade immediately following the war, was the extreme rapidity of the reconstruction that took place both in agriculture and in industry. The destruction of farms during the war and their reversion to extensive cultivation at this period left agriculture with a considerable margin for development. On the other hand, the great expansion of capitalist economy and even the exaggerated development of some of its forms, induced agriculture, during its evolution, to have recourse to the means of economic expansion at the disposal of capitalism thereby coming much more under the influence of this system than before the war.

The extension of the capitalist system to agriculture mainly took the form of an important increase in the working capital in relation to the fixed capital and of the recourse to credit in order to form the working capital. Now as long as the capital belongs to the farmer himself and is not large in relation to the invested capital, the farmer remains able strongly to resist the variations in economic conditions, which no doubt may reduce his resources but cannot upset his financial equilibrium. While in this state, from the capitalist point of view, a farm still retains, to a large extent, its natural character. It is only when the working capital becomes large and is based on credit that the farm takes rather the character of a capitalist undertaking and becomes an organisation extremely sensitive to changes in economic conditions." How different is the problem of rural indebtedness in South India?

It will therefore be wrong to pass any criticism on the Madras Agriculturists' Relief Bill on the basis of the opinions expressed by Sgr. Costanzo in regard to the results of the European experiment. I am sure well considered suggestions for the modification of the Bill will be examined by the Government and that the Bill will emerge from the Legislature in an improved form retaining its underlying principles and main provisions unaffected.

C. C. P. Works, Ltd., Madras.

AMENDMENTS SUGGESTED.*

The following amendments to the Bill are suggested, in order to liberalise the measure in the interests of the agriculturists :—

I. Definition of Agriculturist—Clause 3, Sub-clause (ii)

(1) The definition requires amendment in respect of persons who are assessed to income-tax, profession tax and property tax described in parts (A), (B) and (C) of the proviso to sub-clause (ii) of clause 3. An agriculturist must have been assessed to such taxes for at least two consecutive years before 31st March 1938. If a person was assessed to such taxes in one of the financial years 1935-36 or 1936-37 and had no assessable income in the financial year 1937-38, his exclusion from the Bill is unjustifiable. The assessable minimum under income-tax was Rs. 1,000 only three years ago and subsequently raised to Rs. 2,000.

(2) The test of profession tax under the Local Boards Act in rural areas should be abandoned, or at least raised to more than Rs. 5 per half year. Such tax is only levied in a few districts. Even there, there is neither uniformity nor reasonable standards of assessment. (*vide* para 5).

(3) In regard to property tax under part (C) of the proviso an exemption should be made in regard to residential building of the agriculturist in village areas, and the test must be applied only to agriculturists, who have built houses for investment and have rented them.

(4) In regard to Inamdars, the limit of Rs. 100 quit rent is too small. An Inamdar who pays Rs. 100 quit rent will only have an income of Rs. 700, even when he is assessed to one-eighth quit rent. In some later settlements, even three-fourths of the income was assessed as quit rent. So, the Rs. 100 limit is obviously ineffective to protect small Inamdars. It must be raised to at least Rs. 500.

II. Debts excluded from the Bill—Clause 4.

(1) *Sub-clause (d)*:—Debt contracted on the security of house property in a panchayat which was a Union before 26th August 1930 should not be excluded. (*vide* para 7).

(2) *Sub-clause (f)*:—Debts due to joint stock banks without reference to membership should be excluded from the Bill. The distinction should only be made between "private" and "public" banking companies as defined by the Indian Companies Act,—that is to say, banks with more than fifty shareholders, and banks with fifty or less shareholders. (*vide* para 13-B).

(3) *Clause 8, proviso to sub-clause (2)*:—Usufructuary mortgages where no rate of interest is specified are also exempted though not under clause 4, but under another clause (*vide* proviso to sub-clause (2) of clause 8). If a usufructuary mortgage has run for a long period, say 20 years, the debt should be deemed to have been discharged, though no interest is provided for in the bond. (*Vide*

* References to paragraph relate to the paragraphs of the article.

paragraphs 353 and 369 of the Report of the Royal Commission on Agriculture.

(4) *Surety Debt*:—Surety debt is a "debt" under the Act. If a non-agriculturist stood surety to an agriculturist and if the latter's debt is scaled down under the Act, the liability of the non-agriculturist surety should also be scaled down to the same extent. (*vide* para 7).

III. Ascertainment of the principal—Clause 8.

It may be difficult in practice to reopen transactions without any limit of time to ascertain the principal of the debt, specially where the documents themselves do not disclose the amount of the principal. No scope should be given for letting in oral evidence. It will open the flood gates of purgery. So, in such cases a limit must be placed. The commencement of the depression, 1st July 1930, may be a convenient land mark.

IV. Altering and fixing Rates of interest—Clause 11.

The proviso to clause 11 empowering the Provincial Government to alter and fix rates of interest from time to time by notification should be deleted. The fixing of the upper limit at six per cent is enough. Delegated legislation of this character is dangerous. The maximum rate should be fixed at twice the Bank Rate of the Reserve Bank or six per cent, whichever is higher. (*vide* para 11).

V. Arrears of rent—Clause 12.

In order to make landholders refrain from suing for arrears of rents for fasli 1344 pending the final passing of this Bill, provision should be inserted to save such suits from limitation in the mean time. Even if the Bill is passed in this form, as complete discharge in respect of rents for faslis 1344 and 1345 is made conditional on payment of rents for faslis 1346 and 1347 within fifteen months suits for 1344 must be saved from limitation in the meantime. If a suit is to be now instituted for arrears of rent for fasli 1344, the arrears for subsequent two faslis must be also included, as they will be otherwise barred under the Civil Procedure Code. So, some transitory provision to save limitation is necessary.

VI. Stay of Execution Proceedings—Clause 14.

The period of sixty days provided by the clause to enable a judgment-debtor to apply to a court for the amendment of a decree in pursuance of the scaling down of his debt under this Act is too short. It must be extended to at least ninety days.

VII. Sales of Properties—Clauses 16 and 17.

There must be provision for stay of court sales in execution proceedings during the pendency of this Bill in the Legislature. The period of ninety days given to apply to the Court to set aside the sale of properties is too short and should be extended to at least six months.

C. C. P. Works, Ltd., Madras.

The Madras Agriculturists' Debt Relief Act

By

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and

P. Vaidyanathan, M.A.

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THE MADRAS AGRICULTURISTS' DEBT RELIEF ACT

" Princes and Lords may flourish or may fade ;
A word can mar them as a word hath made ;
But a bold peasantry, their country's pride ;
When once destroyed can never be supplied ".

—GOLDSMITH.

The central fact in Indian rural economy is the appalling poverty and the grinding need of the population ; and the extent of indebtedness is the index of the alarming condition to which poverty has reached. The average income of the agriculturist in Madras is estimated at Rs. 15 per head. It is not an exaggerated remark when the Royal Commission on Agriculture said " In India agriculture is, with most cultivators, with uneconomic holdings, more a mode of living than a business." The observations of the Simon Commission made in 1929 is more true to-day than it was then. " The low standard of living to which the mass of India's population attains is one of the first things that strike a Western visitor. Wants are few, diet is simple, climate is usually kind, and a deep rooted tradition tends to make the countrymen content with things as they are. But the depth of poverty, the pervading presence of which cannot escape notice, is not so easily realized." In spite of his inability to pursue agriculture as a profitable business, the agriculturist will not abandon his calling out of his own free will ; for the abandonment of the farm means the abandonment of the home. Forced to live a squalid life with his poor income, which has been made poorer by the severe depression in the prices of agricultural commodities, he is groaning under a heavy load of debt, which is staggering. No real progress is possible, no new policy of planned economy for the development of the country can be successfully launched, unless the agriculturist classes, the custodians of our national wealth, who form 80% of the population are relieved of their distress by removing the ever crushing burden of indebtedness and

by devising means to increase their income and consequently their purchasing power.

Mr. W. R. S. Sathyanathan, Special Officer, appointed by the Government of Madras to enquire into the question of rural indebtedness in the Presidency has made a modest estimate of the volume of debts at Rs. 200 crores. Debt per head of population is Rs. 42 and this has no relation to the income of the agriculturist which is only Rs. 15 per annum. Interest at 12% per annum calculated on the entire debt of the Presidency will amount to Rs. 24 crores a year, while the net agricultural income (after deducting from the gross income, the cost of cultivation and the land revenue) comes only to Rs. 40 crores. The agriculturist cannot be expected to pay the whole of the interest due annually and the accumulated interest swells the volume of indebtedness. The total landed assets of the Presidency are now only five times the debts. Hence the seriousness of the problem of indebtedness which deserves our first and foremost attention before any scheme of reconstruction. Before any remedy is prescribed to this chronic disease, the real causes of indebtedness must be analysed.

CAUSES OF INDEBTEDNESS

The root cause of the indebtedness of the Indian peasant is the insufficiency of his income which is the result of uneconomic holdings, lack of attention to improved methods of cultivation, manuring, irrigation or the introduction of seasonal crops, lack of marketing facilities, the high mortality and the low vitality of the Indian cattle and the frequent failure of crops due to bad seasons. The size of the average holding in Madras is ridiculously low compared with other countries.

	Average size of holdings.
Madras ..	3 to 4 acres.
England and Wales ..	62 „
Denmark ..	40 „
Germany ..	21·5 „
France ..	20·5 „
Holland ..	26 „
U. S. A. ..	148 „

While the holding of the Madras peasant is uneconomic, the return from his land averages only from 2 to 5% in a normal year with average prices. But in India normal seasons are not very common. Mr. Darling reckons that a cycle of five years will give one good year, one bad year and three normal years. In a survey conducted recently in some of the villages of the Cuddalore Taluk, it has been found that in a large

number of families crop expenses have increased over the income from the land. When a ryot borrows, especially, in a bad season, he is not able to repay the debt and the debt gradually mounts up with the accumulated interest. In course of time a pro-note debt is converted into a mortgage debt and finally the creditor takes possession of most of the ryot's lands. The result is the Indian peasant is " born in debt, lives in debt, dies in debt and bequeaths debt ". The effect of this burden of ancestral debts is inefficient production. The feeling that he will have to sow for others to reap damps the ardour even of the most enthusiastic. At present the small returns from land and ancestral debts are not causes and results but are of mutual causation.

Unproductive expenditure on marriages, social ceremonies, factions and litigations contributes to the rapid growth of the volume of debt. It is usual to exaggerate the expenses on marriages. Normally marriages and ceremonies come at long intervals in an individual's life. It is but natural that the miserable peasant should have some diversion. The percentage of this kind of debt compared with others is very low.

Lack of cheap credit facilities accentuated the pace of growth of the debt. In Madras secured debts usually carry 12% interest but the rate on unsecured loans is 18% to 24%. The Marwaris usually charge 18% to 50% simple or compound interest and penal interest at a higher rate. During the investigation in some of the villages in Cuddalore Taluk it has been found that the sowcars of Kurinjipadi who supplied the villagers with money, usually charged 6 pies for a rupee for a month or 37½% but 9 pies for a rupee for a month or 56¼% was not uncommon. It is only the usurious rates of money-lenders that have swelled the volume of debts. While Government taccavi loans and Co-operative Societies accounted for only 7% of the total debts, the money-lenders are responsible for 93% of the debts. It is no wonder, then, that agriculturists are so heavily indebted.

The growth of population has some effect on indebtedness. Madras now holds more people than Great Britain and between the years 1921-31 recorded a lead of 10·4% while Bengal and the U. P. registered only an increase of 7·3% and 6·7% respectively. The increase in population is outstripping the increase in the area of cultivation and this results in the dwindling of the area of holding per individual.

To a certain extent the incidence of land revenue influences indebtedness. This is true especially during the depression when there is a fall in prices and the value of money has increased. The half net theory of the Government according to one writer has become the 'all net theory.'

The following table showing the purposes for which debts were incurred in some of the villages of the Cuddalore Taluk will be useful and clear.*

Purpose of borrowing.	Rs.	Per cent.
Ancestral debts ..	10,155	53
Agricultural expenses ..	2,622	13·7
Trade ..	1,000	5·2
Domestic expenses ..	1,015	5·3
Marriages and social functions ..	1,505	7·9
Buying land ..	300	1·6
Other purposes including payment of land revenue which forms a big proportion ..	2,557	13·3
Total debt of 50 families ..	19,154	100

The money income of the agriculturists fell appreciably as a result of economic depression and this aggravated the burden of indebtedness on the poor ryot. It is a danger to society if the agriculturist, who is engaged in the noble profession of raising the foodstuffs for the nation, breaks down under an intolerable burden. The prosperity of the entire nation is dependent on the well-being of the agriculturist. Therefore, the need is great for scaling down this debt.

CONCILIATION OR COMPULSION.

If relief is to be given to the agriculturists by scaling down debts, is it by compulsion or by mutual agreement that debts are to be scaled down? It is said that arbitrary scaling down of debts by the State will lead to a great curtailment of credit and only if voluntary conciliation fails compulsion should be tried as a last resort. Though the effect of compulsory legislation in frightening away credit cannot be minimised, the economic depression itself has impeded credit. Such measures should be looked upon as an attempt to solve a deadlock and if they are successful they will not only be beneficial to the debtor but also to the creditor. The Premier believes that voluntary conciliation will be of no avail in our Presidency for the creditors will never come to terms with the debtors. Moreover, almost every agricultural country in the world has found it necessary during the depression to adopt some compulsory measure of this kind. So long as the people realise that these are only emergency devices they are more likely to do good than harm. In Madras passive attempts were made to redeem the agriculturist by passing in his favour several legislative

* Figures were collected from the survey conducted by Dr. B. V. Narayanaswamy Naidu and P. Vaidyanathan.

measures such as the Land Improvement and the Agriculturists Loans Acts, the Co-operative Societies Acts, the Land Mortgage Bank Act, the Insolvency Act, the Debtors' Protection Act, the Usurious Loans Act, the Agriculturists Loans Amendment Act of 1935 and the Debt Conciliation Act of 1936. But these measures did not touch even the fringe of the problem. There is a general complaint that the Debt Conciliation Act was not given a fair trial. Mr. Ramalingam Chettiar rightly replied to this criticism. "Debt conciliation on the basis proposed in the Act is very complicated and relief can be given only in those cases where an application is made by a creditor or debtor. If a large number of applications come in the agency will break down." As conciliation and other voluntary methods have failed the adoption of the principle of compulsion has become inevitable.

LEGISLATION IN FOREIGN COUNTRIES AND IN INDIA

A study of the various attempts made to solve the problem of indebtedness of the rural population in other countries and in our own will be necessary and useful for a proper perspective of the relief measure in Madras. It has been contended that "the nature of the debt of the South Indian peasant and the conditions of South Indian rural economy are very different from those of the Western Countries" and the time and circumstances under which those measures were adopted also differ from ours. Though much of the debt of the central European farmers was contracted for the re-construction of farms devastated by the war, one cannot be blind to the enormous suffering of the agriculturists due to the catastrophic fall in agricultural prices after the depression, the heavy interest charges and the increased cost of production which was the result of improvements in farming effected at a time when market conditions were favourable. The result was the farmer was working on a deficit economy. In Greece, the average income per family was 19,398 drachmas and the average expenditure considered to be indispensable 25,055 drachmas. The condition was similar in most of the European countries. In India poverty and not improvement of agriculture has been the chief cause of indebtedness and the agriculturist was paralysed by the economic depression. But whatever may be the general or specific causes of indebtedness it is a well known fact that excessive indebtedness is a common evil. It is injurious at the same time to debtors and creditors and its effects are felt by the whole community. So a study of the measures adopted to eradicate this evil in foreign countries will be of use.

The different measures adopted in foreign countries may be divided into three categories. Certain countries of Central and Eastern Europe adopted radical measures which aimed directly at relieving the farmers

from debts. These measures partook of the nature of compulsory conversion of farmers' debts, reduction of the rate of interest and in certain cases the principal by the imposition of law. The second type of legislation pursued a policy of direct intervention but confined itself to narrower limits. This type of legislation is characterised by the repayment of loans by instalments over a series of years, the suspension of the measures of distraint against debtors, repayment by the State of part of the debts and the imposition of minimum prices for the sale of expropriated property. The last type of measures seeks to help the debtors through indirect means by the provision of cheap credit facilities and through measures adopted with a view to raising the prices of principal crops and improving agriculture.

In Germany as a result of the crisis numerous legislative measures were rendered necessary between 1931-32. The floating debts of the needy farmers were replaced by a special loan granted by the Bank for German Industrial Securities. The funds were drawn from the levies imposed on the industries while the Reich guaranteed 25% of the loan granted. Orders were also issued offering protection against distraint by creditors. Where voluntary agreement failed, creditors and debtors were subject to legal process which remitted arrears of interest, reduced interest for the future and even made possible compulsory reduction of principal by 50%. In addition to these and some other measures of the National Socialist Government, there was a proposal for raising to a remunerative level, the prices of agricultural products which, in part, had remained appreciably below the cost of production.

In Italy by a law of 1930 extinction of onerous agricultural debt is facilitated by a conversion of short term loans into long term loans payable in 25 years. The State undertook to pay a part of the instalments. Where there are scientific improvements in farming the Minister can grant contributions not exceeding 3½% interest repayable in twenty-five years. Mortgage credit institutions were called upon to replace bonds bearing more than 4% interest by bonds bearing interest at 4%.

In Switzerland the Government found it necessary to develop a Peasants' Aid Bank, which, would give help to the distressed farmers in the form of loans with or without interest and subsidies towards interest; to develop protective measures of a legal nature taken in favour of distressed farmers by the suspension of the repayment of capital, reduction of the rate of interest on secured loans, reduction or suppression of interest on capital sums not secured and extinction of interest due in certain cases; and to prevent new indebtedness by a bill aimed at reducing mortgage debts to a tolerable amount, i.e., to enable the far-

mer to have a subsistence income for him and his family. In the adjustment of debt proceedings the debtor, creditor and the community would collaborate. While the community would subscribe a certain amount for some years to a fund, the creditor would renounce a part of his credit. The creditor would be bought out by a redemption bond. The Federal Council would have control over the farms and would limit indebtedness in future.

Measures adopted in Denmark, Norway and Sweden were more or less similar to those in Switzerland. But in Finland short term loans were converted into long term loans and the land mortgage bank was reorganized. The State not only guaranteed the bonds but subsidised them. Loans were granted up to 90% of the value of the farm. If the farm was forcibly sold in auction it was bought by the bank and restored to the original owner in case he was found fit to assume responsibility. The French legislation was characterised by postponement of repayment to the various classes of debtors.

By a law of 1934 debts of the agriculturists of Bulgaria could be reduced by 40%. The difference resulting from the reduction of debts would be made up out of an amortization fund formed at the Public Debt Office to which the State would assign the proceeds of the tax on vocations and the supplementary tax on total income. The limit of exemption of property for distraint of debts was increased. Some other features of the Bulgarian legislation are spreading of the instalments of repayment over longer periods, postponement of repayment from 2 to 15 years and reduction of the rate of interest. Greece declared a moratorium for agricultural debts in 1930 and followed up to a large measure the legislation in Bulgaria.

Certain debtors in Hungary who got their debts inscribed in the land register of their country were protected from the sale of their property for three months. The State contributed a sum towards the payment of interest on debts of those persons. The legal rate of interest was fixed at 5½%. An amortization fund was set up for the reduction of debts of certain farmers.

Arrears due to the treasury and other public bodies in Poland were reduced in 1932 on condition of the payment of current taxes within a certain period. Long term debts to credit institutions were converted and were repayable in 55 years at a reduced rate of 4½%. Long term debts due to private individuals need not be repaid for a certain period and the rate of interest was also reduced. Short term debts both to credit institutions and private individuals were converted. In the matter of repayment of instalments and in the reduction of the rate of

interest, greater concession was always shown to small land-holders than to big land-holders.

While Roumania and Czechoslovakia followed up the main principles of the Swiss legislation in the reduction of capital and interest, they supplemented those measures with a policy for the reorganization of production at a cost that would leave a margin of profit to the agriculturists. For then only could reduced debt be paid back in future. In Roumania agricultural centres were established and furnished with modern technical equipment for every branch of production with a view to increasing the yield of land. The course of foreign commerce was regulated to find extended markets for Roumanian agricultural products and to increase the price of cereals. Czechoslovakia prevented speculation in the commodity exchanges of grain by fixing the price of cereals.

Legislation pertaining to moratorium and amendment of civil laws to prevent sale of lands of debtors by auction are characteristic of the measures adopted in Yugoslavia and Latvia. In these two countries and in Estonia and Lithunia provision was made for the conversion of short term loans to individuals, co-operative societies and private banks into long term loans. Land Mortgage Banks in certain cases and State Agricultural Banks in others were established to take over these reduced debts of farmers. Rate of interest on mortgage loans was reduced considerably.

Only voluntary conciliatory methods in the reduction of debts were adopted in Japan. Associations were formed for that purpose in villages. Passive conciliatory machinery was established in Canada by a law of 1934 to enable farmers, over burdened with debts but not desperate, to remain on their farms. Farm Loan Laws were amended to increase the total amounts that could be lent by the Dominion Farm Loan Board and to raise the sum that could be advanced to any borrower from 50% of the value of security to 60%.

The agricultural credit policy of the U.S.A. was entrusted to the Farm Credit Administration, whose aim was to create a system of completely unified credit institutions on a permanent basis, to supply farmers and their organizations credit at the lowest cost and to facilitate the adjustment of the heavy burden of mortgage debts by emergency financing and reduction of the rates of interest. Debt Adjustment Courts would go into each case to decide the deserving farmers. To enable the farmers to make voluntary arrangements with their creditors the Credit Act allowed a flotation loan the proceeds of which could be utilised for the purpose.

It must be noted that when drastic measures are adopted in most countries it is only to give adequate relief to small holders. Ordinary law and the conciliatory machinery give relief to big landowners. Measures which are popular are those which respect contractual obligations. Where radical measures are adopted credit unduly contracts and public opinion strongly reacts rendering necessary the adoption of new measures to calm the people But in spite of popular agitation various countries have adopted radical measures because they must have found out the futility of conciliation and mediation in the case of small holders.

In the Indian Provinces excluding Madras much attention is being paid to the question of tenancy legislation. In Bihar, Orissa, the United Provinces and Bombay bills are introduced in the legislatures to relieve the tenants from the oppression of Zemindars chiefly for arrears of rent and debts and to enforce their occupancy rights on lands. Regulation of money lending has been attempted with full or partial success in the Punjab, Bombay, Bengal, Orissa and some other Provinces. Debt conciliation boards have been formed in the Central Provinces, Bengal and Bombay. Acts to prevent land alienation were passed in other provinces.

In the Bhavanagar State a Commission was appointed to assess the causes of indebtedness and the volume. On the basis of its report the Durbar, by a debt redemption scheme, sought to liquidate the past debts of agriculturists by advancing loans to each individual ryot at easy rates of interest. The awards of the Debt Liquidation Committee are binding on the sowcars and the ryots. It is interesting to note that while the nominal indebtedness in the sowcar's books was Rs. 86,38,874, the amount that was actually paid in composition was Rs. 20,59,473. The reason for this successful liquidation is the immediate cash payment by the State to the sowcars. For the liquidation scheme to be effective and permanent, the system of village panchayats was introduced by which the villagers took on themselves the management of their own affairs and were made responsible for the development of the economic welfare of the ryot. In Hyderabad the Land Alienation Act has been made more stringent; and registration of moneylenders was enforced to prevent usury. Debt conciliation boards established for the benefit of a certain class of agriculturists were based on voluntary effort with a small element of coercion for effective working. Further there are proposals to start land mortgage banks and to provide the bankrupt debtors with a rural insolvency Act.

In no Province or State compulsory methods are adopted to scale down debts. Where voluntary methods have failed the State must

intervene and compel the creditors to renounce a portion of their claims. The Madras Agriculturists' Relief Act is unique in this respect.

FROM THE MORATORIUM TO THE DEBT RELIEF ACT

The first measure of the Congress Government was a Moratorium Bill passed in the middle of September, 1937. The Bill was intended to give temporary relief to indebted agriculturists till comprehensive measures were formulated for dealing with indebtedness. Both the period of the Moratorium and its applicability were restricted. The Bill laid down that for a year no suits or proceedings could be instituted against agriculturists whose liabilities under the heads of land revenue, rent and taxes and liabilities to local authorities did not exceed Rs. 400; who had saleable interests in lands; and who derived ¾ of their income from lands. Sums due to Provincial and Central Governments, to co-operative societies, joint stock banks and land mortgage banks were excluded from the operation of the Bill. It was made clear that agriculturists shoud not be entitled to transfer any immovable property so as to defeat the rights of their creditors.

Though substantial measures of relief were to follow the Moratorium there was great opposition to it. It was said that moratorium was a desperate remedy to which Governments resorted to when their banking systems were threatened with crash by a war or other serious calamity. But in the west such moratory legislation is common. In the Co-operative Conference a resolution was passed that the Moratorium Bill. that was introduced in the legislature should be either ancillary to the Agriculturists' Relief Bill or be immediately followed by such a bill. In the latter case the interval should not be more than three months. But in Greece a moratorium for five years was declared and one year was not too long a period. It was contended that the definition of agriculturists worked great hardship in the case of certain deserving agriculturists, whose income from land was not ¾ of their total income. A fear was expressed that there would be a shrinkage of credit for seasonal agricultural operations. But such complaints were always made against all radical measures.

Great agitation against the Moratorium forced the Government to drop the idea and to publish in the beginning of December, 1937 the Debt Relief Bill. This Bill is simple and quite different from the Debt Relief Act that has actually come to stay on the statute book.

The object of the Bill is to rehabilitate agriculture, the basic industry of the Province, by relieving the producers of food from the incubus of indebtedness. The main principle of the Bill is that all arrears of

interest outstanding on the 1st October, 1937, shall automatically stand cancelled, in the case of all debts incurred by the classes of debtors defined as agriculturists. Where simple interest has been charged at more than 9% or compound interest charged or provision made for penal interest, the debt shall be deemed to be discharged in full if the total sum paid to the creditor, whether for interest or principal, amounts to twice the amount of the principal of the loan. If the amount paid till 1st October, 1937, falls short of twice the principal, such amount as will make up this shortage or the principal amount alone, whichever is less, will be paid to the creditor.

For the purposes of the Bill an agriculturist is one who had a saleable interest in land under the ryotwari or other tenures or a lessee of such lands. The Moratorium Bill did not include the lessees within the scope of agriculturists. Unlike the Moratorium Bill no upper limit of income from land is fixed in this Bill to qualify an agriculturist for the benefits conferred on him by this measure, though such limits are fixed for landholders under the Estates' Land Act and the Malabar Tenancy Act. Those who pay income-tax or profession tax of more than a rupee a year or property or house tax exceeding Rs. 600 a year are excluded from the operations of the Bill. These provisions are intended to ensure that persons following occupations other than agriculture do not benefit by the Bill. The Bill exempts the debts due to Governments, Local Bodies, Co-operative Societies and Joint Stock Banks with a membership of more than 500 share-holders. The rate of interest on all future loans is 6%.

Arrears of rent payable in areas under the Estates' Land Act and the Malabar Tenancy Act except arrears of the last two faslis shall be wiped out according to the Bill. But the tenant must pay within 15 months of the passing of the Act arrears of the last two faslis in full. Otherwise the old arrears will be deemed to be discharged only proportionately to the extent rents are discharged for faslis 1346 and 1347.

The provisions of the Bill can be applied to decreed debts. Where a decree is in execution it can be stayed till it is again amended. Sales of movable or immovable property of the agriculturists can be set aside if such sales are made in execution of a decree after 1st October, 1937. The amount in excess of the scaled down amount received by the decree-holder as a result of the sale shall be refunded to the debtor.

The Bill was referred to a Select Committee on the 21st of December. The most fundamental changes made in the Bill by the Select Committee are those regarding interest clauses. The Committee has made a distinction between the pre-depression period and the post depression period i.e., debts incurred before 1st October 1932 when the

value of money was less than now and those incurred after that date when the value of money appreciated owing to a fall in prices. The provisions regarding the wiping out of interest were retained in the case of pre-depression debts, while for debts incurred between 1st October, 1932, to 1st October 1937, the rate of interest was fixed at 5%. Where a debt after 1st October, 1932 was found to be a renewal of a debt incurred prior to that date, the debt or any part of it renewed will be dealt with as a debt incurred prior to 1932. Thus the principle of damdupat has been retained for pre-depression debts.

The payment of the rent for fasli 1347 before 30th September, 1938, was made a condition precedent to the grant of relief to a tenant from arrears of old rent. The rent for fasli 1346 must be paid before 30th September, 1939, if the tenants want a full discharge in respect of all arrears of rent accrued for previous years.

Minor changes have been effected in the definition of agriculturists. Women who own no property but who have lent out sums less than Rs. 3,000 are exempt from the Bill. Personal belongings of a woman, viz., jewels and household furniture should not be taken into consideration when computing the value of the property. Wages due to agricultural and rural labourers were exempted. A mortgagee in possession of the property mortgaged not taking any interest is exempted from the Bill.

For the sake of easy calculation the Committee has changed the rate of interest from 6% to 6¼% or 1 pie for a rupee for a month.

Before the Bill was passed into an Act the Government made certain amendments in the Bill and this has resulted in two important changes in the Bill. Whereonce creditor companies with 500 shareholders and more were exempted, this concession was now limited to scheduled banks of the Reserve Bank provided the interest charged by them was within 9%. In the case of post depression debts past payments in excess of 5% shall be appropriated only to arrears of interest while formerly reduction of principal also was possible.

THE UPPER LIMIT

The main object of the Act is to rehabilitate agriculture the basic industry of the Province and not so much to give relief to individual agriculturists. It is true that the land is the source from which the food for the people and the raw materials for the factories are produced. It is argued that as the prosperity of other sections of the people is dependent upon the agriculturist and his land, agriculture as an occupation is sought to be relieved from indebtedness. The Premier has often said that it was intended to relieve the industry of agriculture by relieving

the burden on land. The burden is actually felt by the man and some ryots feel the burden while others do not. By the occupation test relief will be distributed indiscriminately to both big and small land-holders, to those who need relief and those who do not. A study of foreign legislation will reveal that radical measures were adopted only to save the small holders while the big owners of land availed themselves of the voluntary agreements and other ordinary laws of the land. Even from the occupational test, which pays more attention to the impersonal than to the personal aspects involved, the denial of relief to Jenmies, Zamindars and Inamdars who pay above a certain sum to the Government is not based on correct principles of economics. From this standpoint there is no case for excluding produce-sharing tenants and labourers. In the Tanjore district and other southern parts of the Presidency there are a large number of absentee landlords who lease out their lands and spend their time in the town. While this class of landowners is relieved there is no justification for excluding Zemindars and Inamdars. To avoid this anamoly an upper limit is essential.

Where are we to draw the line between the big and small land-owners? An investigation by Mr. Sathiyanathan into 564 families throughout the Presidency has given the following results.

	No. of families.	Extent of holdings & lands taken on lease.	Assessment paid.	Total debt.	Debt per head.	Dept per Re. of Assessment.	Debt per Acre.	Debt per family.
		Acs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
Farm labourers owning no lands and paying no assessment or rent ..	23	..	..	1,739	15	..	..	76
Registered landholders and tenants paying land revenue or rent of Re. 1 to Rs. 100 ..	306	4,483·03	11,143–8	3,23,438	211	72	29	1,057
Registered landholders and tenants paying land revenue or rent of Rs. 100 and above ..	235	24,738·0	1,35,453–4	10,79,186	918	44	8	4,592

Similar results have been arrived at by an investigation conducted by us in some of the villages of the Cuddalore Taluk. Fgures given below are only for 50 families in two hamlets of Ellayappenpettai, Cuddalore Taluk.*

	No. of families.	No. of members.	Assessment.	Holdings.	Total debt.	Debt per family.	Debt per head.	Debt per Ac.	Debt per Re.
			Rs.	Ac.	Rs.	Rs.	Rs.	Rs.	R
1. Farm labourers owning no lands ..	9	62	.	..	932	103-9	15	..	.
2. Registered landholders paying a land revenue between Re. 1 to Rs. 100 ..	38	223	473	170	16,322	430-0	73	96	3
3. Registered holders paying land revenue above Rs. 100. ..	3	20	395	99½	1,900	633-0	95	19	

The burden of debt should not be determined by the amount borrowed alone; for a man with a larger amount of debt may not feel the burden so much as a man with a smaller amount. For the one may be rich while the other poor. The burden of debt is, therefore, to be judged by a comparison of indebtedness to assets. Judged from this standard both Mr. Sathyanathan's figures and the figures collected in our survey lead us to the same conclusion that the hardest hit are the small and medium land-holders paying a land revenue between Re. 1 to Rs. 100. While debt per acre and per rupee of assessment of this class according to our survey is Rs. 96 and Rs. 35 respectively, for those paying a land revenue of Rs. 100 and above the corresponding figures are only Rs. 19 and Rs. 5. But if we take into consideration debt per head they give a false idea of the position. In fact the position is reversed. Debt per head for those paying a land revenue of above Rs. 100 is 95, while for those who pay land revenue between Re. 1 to Rs. 100 it is Rs. 73. So the unwary are liable to be misled. A perusal of the table from Mr. Sathynathan's report will convince one of the

* Figures calculated from the Survey in the Cuddalore Taluk conducted by Dr. B. V. Narayanaswamy Naidu and P. Vaidyanathan in June, 1938.

correctness of this conclusion. These small and medium land owning class (paying land revenue between Re. 1 and Rs. 100) who form the largest number of the rural population have settled on land and are the actual tillers of the soil. It is they who really feel the actual burden of indebtedness. It will not be an exaggeration if we call them the back-bone of our agricultural industry. If they are freed the industry itself will get great relief. When it is said that relief should be given to this class of agriculturists, it does not mean that the big holders are not suffering. They too are badly hit though not so badly compared with the small-holders. Debt conciliation boards and land mortgage banks are the proper machinery through which they should get relief. The upper limit for this radical measure should be limited to those who pay an assessment of land revenue to Government not exceeding Rs. 100.

EXCLUSION OF LABOURERS

It is an imperative necessity that the debts of farm labourers should be scaled down. Though their position is not so grave apparently as can be seen from the tables given above, yet even the small debt per head cannot be repaid by them. A special provision for wiping off their debts supplementing such a measure by exempting movables, i.e., the materials used in husbandry in addition to dwelling house, livestock and the minimum produce for subsistence should be introduced. While there is a case for inclusion of arrears of rent in this Act, the debts of labourers might have also been included. The Premier has promised to introduce a separate measure for the purpose at the earliest opportunity.

SANCTITY OF CONTRACT

Too much emphasis has been placed on the sanctity of contract. It is said that any legislation that destroys this sense of sanctity of contract destroys the roots of social life. But it is an important fact that justice is the basis of contract and in the relation between debtors and creditors where an unconscionable rate is charged by the debtor the sacredness of the contract vanishes into thin air. The debtors and creditors have never been on equal terms and all the Governments of the World have in one way or other violated this principle. The various relief measures in many foreign countries are examples of the violation of the contracts. Even in India the rate of interest was always regulated and laws were passed to enable courts to reopen old transactions. The Deccan Relief Act in many ways transgressed this principle of contracts. The return from agriculture varies from 2 to 5%. To borrow for that industry at a rate ranging from 6% to 50% is very bad economy indeed. If violation

of the contract is unjust, the usurious rate of interest is criminal and suicidal. A revision of contract with every change in the volume of money is necessary. Even nations were obliged to violate contracts entered into when, owing to various economic causes, they were unable to respect such obligations. What is true of nations is true of individuals also. After all, men are responsible for these contracts and when these contracts threaten the economic position of the individuals, it is but right that these contracts should be abrogated. So there is a justification for the Debt Relief Act.

THE POST AND THE PRE-DEPRESSION DEBTS

Not only the most contentious but the most important clauses in the Act are clauses 8 and 9, which provide for the compulsory scaling down of debts and wiping out of arrears of interest. Before proceeding to discuss the provisions it is necessary to see what kind of debts compose the major portion of the indebtedness of the agriculturists. In discussing the causes of indebtedness it has been proved conclusively that ancestral debts form the highest percentage of the volume of debts compared with other debts. (Vide figures given from the survey of the villages in the Cuddalore Taluk Page 4). Statistics given below regarding the purpose of borrowing from three different sources will corroborate the truth that ancestral debts are the heaviest burden on the agriculturists and will also supplement the account given from an investigation in the Cuddalore Taluk.

TAMARAIPATTI VILLAGE—MADURA TALUK.[1]

Debts classified according to purpose:		Rs.
Cultivation expenses	..	4,950
Purchase of bulls	..	7,010
Purchase of lands	..	8,825
Improvement to lands	..	1,100
Discharging prior debts	..	37,225
Building new houses	..	11,100
Family expenses	..	11,810
Litigation expenses	..	1,000
Trade	..	2,000
Purchase of a motor car	..	2,500
Payment of kist or lease amount	..	1,110

1. The Madras Provincial Banking Enquiry Committee—Investigators' Report.

SIVAPURI AND GAVARAPET VILLAGES—CHIDAMBARAM TALUK.[2]

Purposes of borrowing:	Amount.	Percentage.
	Rs.	
Maintenance ..	4,925	11·16
Purchase of lands ..	9,900	22·43
Agricultural improvements ..	2,960	6·71
Purchase of cattle ..	460	1·04
Land revenue ..	690	1·56
Liquidation of old debts ..	10,450	23·68
Marriage and funeral ..	3,705	8·04
Education ..	2,700	6·12
Interest payments ..	850	1·93
Medical ..	169	0·39
Current interest due ..	6,025	12·65
Miscellaneous ..	1,295	2·93

Results from 141 selected villages in the Madras Presidency[3]—

Purposes of borrowing:	Amount.	Per cent.
Payment of prior debts ..	44,85,400	25·1
Marriage and other ceremonies ..	18,80,761	10·5
Land revenue ..	5,84,173	3·3
Relief of distress ..	10,88,377	6·1
Agricultural expenses ..	17,87,457	10·0
Improvements to land ..	7,88,709	4·4
Education of children ..	2,47,337	1·4
Trade ..	23,01,937	12·9
Purchase of land ..	24,74,715	13·8
Construction of houses ..	10,08,416	5·6
Other expenses ..	12,38,384	6·9
Total ..	1,78,85,666	100

The following table prepared from Mr. Sathyanathan's Report gives an idea of the number of cases in which lands were sold or money was borrowed for different purposes. The figures are for the years 1930-34 taking two typical villages for each district of the Presidency except South Kanara and Malabar.

2. The Problem of Rural Indebtedness—Dr. B. V. Narayanaswamy Naidu and Mr. V. Venkataraman.

3. Report on Agricultural Indebtedness—W. R. S. Sathianathan.

Year.	Agricultural purposes.	Trade.	Kist.	Marriage expenses.	Discharging of old debts.	Other purposes.	Purposes not ascertainable.
1930: Sales ..	72,705	21,413	5,424	24,743	10,67,453	1,38,475	2,35,27
Borrowings ..	66,575	46,802	2,656	33,042	8,25,425	1,60,630	1,20,16
1931: Sales ..	22,741	5,314	1,380	10,109	13,84,426	70,306	2,09,25
Borrowings ..	31,406	66,182	1,577	17,934	8,85,695	85,592	80,65
1932: Sales ..	43,941	16,046	5,091	11,966	15,29,892	92,063	1,95,00
Borrowings ..	46,831	38,798	1,115	32,988	7,64,965	96,878	2,02,53
1933: Sales ..	46,290	17,662	8,803	11,940	13,54,389	61,546	1,94,72
Borrowings ..	29,064	27,231	3,049	24,492	6,40,839	1,32,634	69,16
1934: Sales ..	33,218	11,473	3,539	22,805	1,15,235	72,816	1,79,16
Borrowings ..	70,664	27,934	975	27,667	6,36,660	75,099	55,48

The number of sales and the number of cases in which money was borrowed by mortgaging property or through promissory notes are disproportionately large in the discharging of old debts when compared with other purposes of borrowing. Extreme pains are taken to show that ancestral debts form the largest proportion; for, then only there is a justification for clauses 8 and 9.

In the scaling down of debts the Act draws a line at 1st October, 1932 to divide pre-depression from post-depression debts. It is often asked what is the sanctity of the date 1st October, 1932? There is every justification for fixing that date as the dividing line. The following index numbers of wholesale prices in the Madras Presidency will clarify the point.*

Year.	Rice.	Groundnut.	Cotton.
1928-29 ..	100	100	100
1929-30 ..	90	85	85
1930-31 ..	72	55	62
1931-32 ..	60	63	56
1932-33 ..	56	59	57
1933-34 ..	48	39	58
1934-35 ..	56	57	63
1935-36 ..	59	58	62
1936-37 ..	56	62	60

The effect of the depression began to be felt in 1931. It reached its lowest point in 1934-35. As the effect of a pricefall is not immediately.

*Dr. P. J. Thomas, *Hindu*, January 28, 1938.

felt the year 1932 may safely be taken as the dividing line of pre-depression from post depression debts.

But the principle adopted in the scaling down of debts is the principle of 'damdupat' which says that when a creditor receives twice the amount of principal by way of principal or interest towards debts contracted before 1st October, 1932, the whole of the debt will be deemed to be discharged. Thus the principle of 'damdupat' which is intended to be applied in the case of usurious rates of interest is wrongly applied to slump in prices. If scaling down of debts is to be related to fall in prices alone a ratio between prices and debts should be established and on this basis debts should be scaled down. This has been the principle in some foreign countries. But in Madras it has been proved conclusively that ancestral debts with usurious rates of interest are the heaviest burden on the agriculturists. If this burden is to be removed the principle of 'damdupat' should be correctly applied.

The second class of debts—the post depression debts—are dealt with differently. In the case of these debts past payments in excess of 5% interest shall go to cover only arrears of interest and not principal though the Select Committee recommended that it should cover the principal also. Here again it is difficult to relate the reduction of interest to any principle. It has no relation either to changes in the price level or capacity to pay. Moreover, the rate of interest for all future debts is 6¼% and as prices are gently rising there is no justification for a lower rate of interest fixed for post-depression debts.

The scaling down of debts on the basis of slump in prices can be justified if the scaling down were to be followed by immediate discharge of the debts. But in the absence of any such facilities debtors will be put to great hardship. For creditors may wait for a rise in prices or they may press for immediate settlement of debts by taking over the lands of debtors. This can, to a certain extent, be mitigated if provisions are made to transfer lands to creditors at the pre-slump prices and to exempt a minimum holding in the case of agriculturists who cultivate their own lands.

But as there are many difficulties in the way of scaling down debts in relation to fall in prices, as conditions in Madras are favourable mainly for the application of the principle of 'damdupat', it will be right to revert to the principle of scaling down embodied in the original bill. It may be laid down that all debts contracted before 1st October, 1937, and which carry more than 5% interest simple or compound shall be scaled down on the basis of the principle of 'damdupat'. For all debts contracted after that date and for all future debts the rate of interest shall be

5% and not 6¼% as is laid down in the Act. The Government should have power to change the rate of interest whenever very bad seasons occur. The merit of this principle is that a large amount of old debts will be wiped out and the agriculturist will be very much relieved.

FUTURE INTEREST

The power of the Provincial Government to change the rate of interest from time to time is viewed with suspicion. It is feared that it would introduce an element of uncertainty in credit. The principle that a Central Bank or a Reserve Bank should regulate the bank rate and the rates of the money market is correct. The Government should not interfere in the regulation of such rates. But this principle can be applied in India only to organized credit institutions. The money-lenders in the villages who have no connection with the money market and who have no knowledge of the principle of the money market continue to charge usurious rates of interest. Their rates of interest are not affected either by the rate in the money market or by fall or rise in prices but only by the personal character of the man. Such usurious rates can be regulated only by executive fiat and the Act rightly allows the Government to fix the rate from time to time.

ARREARS OF RENT

These form the third class of debts that are scaled down by certain clauses in the Act. Relief that will be given to the tenant will not be immediate because the prompt payment of rent for fasli 1347 and 1346 before 30th September, 1939 is a condition for wiping out of arrears of previous faslis. It is curious that while the same principle for the prompt payment of scaled down debts is not adopted in the case of ryotwari landowners, such a principle is applied to the poor tenants on the ground that if arrears were wiped out unconditionally, current and future rents would not be easily realized. Moreover, this provision is not related either to fall in prices or capacity to pay. A recalcitrant tenant who can pay his old arrears will refuse to pay them when once he pays the dues for faslis 1346 and 1347 within the due date. A poor tenant who has not the capacity to pay the rent for the two faslis (1346 and 1347) is pressed hard for his old arrears. Thus great hardship is caused to poor tenants by this clause.

CO-OPERATIVE SOCIETIES AND JOINT STOCK BANKS.

The exclusion of the Co-operative Societies is a right move on the part of the Government. Co-operative Societies are associations of borrowers themselves and their object is the advancement of the members and not the earning of usurious rates of interest by exploiting the

borrowers. But in the case of credit by money lenders the interests of lender and borrower are in a manner opposed and the special interests of these men are the exploitation of borrowers for the sake of private gain. If only the Act had included the Co-operative Societies it would have defeated its own purpose. Moreover, the recent policy of the Co-operative Department is the introduction of controlled credit in the Societies in order to improve the repaying capacity of the agriculturists. The inclusion of these societies will result in a set back to agriculture. The Registrar of Co-operative Societies has already issued a circular to all co-operative institutions that in respect of D class societies no member shall be asked to pay more than double the principal originally borrowed by him; no member shall pay more than the principal plus interest calculated at 6¼% from the date of the disbursement of loan; and that 25% of the amount outstanding now may be remitted. Simple interest at 6¼% is charged on awards by arbitrators on outstanding loans. But the Registrar's proposals are not mandatory and some central banks and co-operative societies have not given effect to his suggestions. The matter can be set right if the Registrar or the Provincial or the Central Bank enforces these proposals on the societies.

While there was a great agitation for excluding joint stock banks with less than 500 share-holders from the Bill, the Government amendment limiting the exemption only to scheduled banks was a great shock to many banks and individuals. A large number of funds, nidhis and small banks are relegated to the same position as the private money-lenders are. In the finance needed to raise crops these institutions form an important link in the chain of rural credit. If institutional credit is to be preserved these institutions should be exempted. To prevent a few big money lenders forming themselves into joint stock banks a limit may be placed on the number of share-holders. But that limit should not be so high as 500. The provision that past payments in the case of post-depression debts will be appropriated only to interest, has to a certain extent mitigated the serious wrong done to these institutions.

SOME MINOR CRITICISMS.

A beneficial feature of the Act is that some women who live solely on a small amount within Rs. 3,000 lent out, are exempted from the provisions of the Act. Orphans and infirm men are in the same position as these women are and they should also be exempted. The Act does not touch usufructary mortgages. It is but just that when a person enjoys the property for twenty years for the sums he has lent out, the mortgagor should get back his property and the whole amount should be

deemed to have been discharged. In the tenancy legislation of some provinces provision is made more or less on the above lines for the discharging of arrears. The Zemindar will be in possession of the lands of the occupancy tenant for some years in lieu of the arrears of rent. After that period lands will be returned to the tenant and the arrears will be wiped out. No provision has been made to save the debtor from being sold up. As has been already pointed out a minimum holding should be exempted from being attached and a schedule of prices should be prepared at which alone lands could be sold. The Act has no provision to afford relief to the large number of insolvents. The present law of insolvency is so hopelessly complicated and expensive that few agriculturists can take advantage of it to avoid harassments. Provision should be made in the Act for a certain minimum of produce or lands for the subsistence of the insolvent debtor and his family.

A CONSTITUTIONAL POINT.

A question has been often raised whether the provincial legislatures, according to the Government of India Act, could legislate in the matter of business carried on by banks. While the regulation of money lending belongs to the provincial list of subjects, the regulation of banking comes under the sphere of the federal legislature. No doubt Government would have taken legal advice on this matter before proceeding to legislate. But recently a crop of cases has arisen in the various courts of the Presideency questioning the validity of the Debt Relief Act in the case of promissory notes, which are negotiable instruments. A subordinate judge of Kumbakonam in his judgment delivered on September 19th said "Considering the relevant sections of the Government of India Act 1935 together with the legislation in respect of promissory notes and bills of exchange, under the Negotiable Instruments Act, it seems to me clear that the promissory note is a subject matter which is outside the province of the legislative powers of the Provincial Legislature and therefore it is we do not find any mention of promissory notes or other documents representing notes while we find the word "debt" alone in the Act IV of 1938. The question is whether "debt" coming within that definition of the Act will cover a debt under a promissory note or any negotiable instruments and upon this point there can be no doubt that all debts affected by the provisions of Act IV of 1938 of the Madras Provincial Legislature cannot comprise the debts due under a promissory note or other negotiable instrument coming under the provisions of the Negotiable Instruments Act." If the Act is held not to apply to negotiable instruments the relief that could be granted to agriculturists becomes so small as to make the Act practically a dead

letter. Everything depends on the decision of the High Court, which is keenly awaited by many debtors and creditors.

FUTURE OF CREDIT.

The first effect of the Act will be a drastic curtailment of credit and the seasonal agricultural operations will suffer through the drying up of credit. During the survey of some of the villages in the Cuddalore Taluk, it has been found that a good number of agriculturists have left their lands fallow on account of their inability to get credit. Conversation with the village folk of Ellayappanpettai has revealed that the society in Kurinjipady under whose jurisdiction they came was very shy to lend them. The collection of kist became very difficult in the villages. A sowcar in Kurinjipady said that business became very slack after the Debt Relief Act. Even the sowcar thinks twice before he lends out. The Revenue Inspector of Kurinjipady received as many as 15 applications for taccavi loans during the course of 15 days in the month of May. This is a very uncommon feature ordinarily. An inspection of the taccavi loan ledger in the Chidambaram Taluk Office clarifies certain doubts.

Taccavi loans granted by the Revenue Department in the Chidambaram Taluk.

Fasli or year.	Applications received.	Number sanctioned.	Number rejected.
1344 (1934-35) .	9	4	5
1345 (1935-36) ..	3	1	2
1346 (1936-37) ..	8	2	6
1347 (1937-38) ..	10	(Under consideration 1)	9
1348 (1938-39) .. From 3-7-1938 to 20-9-1938.	15	3 (Under consideration)	12

Chidambaram being a wet area, taccavi loans are not popular. In spite of it the number of applications received for only two months after the passing of the Debt Relief Act is nearly double the number of applications received in previous years. We are not concerned here with the rejection of the number of applications or the amount sanctioned. The large number of rejection may be attributed to the inherent defect of the Land Improvement and Agriculturists' Loans Act and the administrative difficulties felt by the subordinate officers. We are interested only to show that due to the shrinkage of credit supplied by money lenders there has been a rush even to the unpopular taccavi loans.

An inspection of the loan ledger of the Chidambaram Loan and Paddy Sales Society supplements this evidence—

Village Centres.	Amount of loans granted 1937 (January to December)				Amount of loans granted 1938 (Jan. to Novr.)			
		Rs.	A.	Ps.		Rs.	A.	Ps.
1. Kattumannarkoil	..	740	0	0		2,795	0	0
2. Vlakam	..	3,330	0	0		7,620	0	0
3. C. Sathamangalam	..	1,150	0	0		1,960	0	0
4. Orathur	..	1,610	0	0		5,419	0	0
5. Maduranthakanallur	..	3,599	0	0		6,077	0	0
6. Maiyathur	..	1,895	0	0		2,802	0	0
7. Naivasal	..	2,662	8	0		1,854	0	0
8. Lakshmigudi	..	4,378	0	0		4,560	0	0
9. Keelnedumbur	..	3,507	0	0		4,347	12	0
10. M. Odayur	..	5,548	0	0		7,523	0	0
11. Suravilandur	..	6,474	0	0		3,875	0	0
Total	..	34,893	8	0		48,832	12	0
11. New centres started in 1938						20,199	0	0
Grand Total	..	34,893	8	0		69,031	12	0

This feverish increase in the amount of loans advanced cannot be attributed merely to the expansion of the activities of the Society. If it had not been for the Debt Relief Act, the amount of loans advanced this year would not have doubled. From the figures derived from this Society it cannot be generalised that there is a great turnover of business in the Co-operative Societies. In fact, examination of some of the societies in the Cuddalore Taluk gives a contrary result.

Facts have proved that there is a shrinkage of credit supplied by money lenders. The question arises whether it is beneficial to the agriculturists. To a certain extent shrinkage of credit will do some good to the improvident agriculturists. But when the co-operative societies and other small banks restrict their credit, then the agriculturists will be at a loss to find money for the seasonal needs of agriculture. To that extent the repercussions of a shrinkage of credit are detrimental to agricultural production. So it is the duty of the Government to rectify the Co-operative movement and consolidate their position in order to enable them to meet the increased demands on their resources.

It is often said that the funds of money lenders would not be kept idle but would soon find an outlet. Those who are eager to invest will invest their funds in fixed capital in urban areas. Investment in banks, especially at a time when there are bank failures, will not be popular. Many illiterate ryot money lenders will begin to hoard or buy lands. When the investor becomes a burnt cat, it will take a long time for him to recoup and one cannot expect the money lender to lend easily to the agriculturists in the near future. In many cases the poor agriculturist who is in dire need of credit will conspire with the money lenders to evade the law. Investigation in some of the villages has brought to light cases where the professional money lenders execute pronotes with statutory rate of interest but pay the agriculturists only half the sum mentioned in the bonds. It is doubtful whether pawnbroking comes under the scope of the Act. A number of families have pledged their jewels with the sowcars of Kurinjipady for small sums which carry very high rates of interest.

REPAYMENT OF SCALED DOWN DEBTS.

One of the most sensible criticisms of the Act is that there is no provision to enable the agriculturist to repay his scaled down debts. While on the one hand the creditor who is adversely affected is not redressed by immediate payment of the scaled down debts, on the other, the debtor will be harassed by the infuriated creditor who will prefer claims in the Court against him. Naturally there will come to stay a large number of landless agriculturists as a result of the Act. A ryot of the Kottavancheri village of the Cuddalore Taluk said during the enquiry that the repayment of loans should be based on instalment basis as in the case of land mortgage banks and that the Revenue Department should take the responsibility of collecting the instalments regularly for the creditors as arrears of land revenue are collected. This method would avoid expenses that would be incurred otherwise if the creditor were to go to a Court of law. The Revenue Department is already saddled with too much work and cannot go into the affairs of private transactions. Another suggestion is the time limit of one year for the repayment of scaled down debts. After that period the civil Court on application by the debtor or creditor, shall decide that the debtor shall convey and the creditor shall accept in full satisfaction of the debt, such property as is equal in value to the debts due by him. The value of the property is to be decided on a proportion that is fixed in the case of lands to assessment, in the case of houses and buildings the net annual rental value taken for the assessment of property tax and in other cases the capitalised value of the net income from properties. Where

the assets of a debtor are less than his liabilities, the creditor shall accept only such proportion of the scaled down debts that the total assets of the debtor bear to his total liabilities. While this proposal is fine on paper, it does not give an opportunity to the debtor to pay his debts in instalments. The anxiety of the Government to preserve the land from passing on to non-agriculturists will be defeated by this proposal. A proposal is made that the Government should issue bonds to creditors in full settlement of the debts by the debtors and thus transfer the claim on debtors to itself. Debts will be collected in instalments over long periods when the land revenue falls due. But the difficulty is the entire responsibility of liquidating indebtedness falls on the Government. Huge amounts by way of interest should be paid to bondholders irrespective of the debtors paying the instalments. More than this, it will lead to a prolonged enquiry into each and every case before a settlement is made.

It is gratifying to note that Government is making attempts to organise debt conciliation boards throughout the length and breadth of this Presidency to give effect to the relief that is foreshadowed in the Debtors' Relief Act. It is necessary for the Government to issue a notification calling upon all debtors and creditors to file in a prescribed form their claim before the village munsiff of their villages within an appointed date. This will give an idea of the amount of conciliation work that is to be undertaken, the number of centres where they are to be started and the amount of loans the Government would have to supply to the small and medium holders. Suitable amendment should be made in the Debt Conciliation Act if necessary, or rules should be framed both under the Agriculturists' Relief Act and the Debt Conciliation Act to enable the latter to effectively undertake the spreading of relief that is thought of in the former.

The Government has provided a sum of Rs. 50 lakhs in the budget for the disbursement of loans to the small ryots in order to enable them to take full advantage of the provisions of the new Act. Morever, the Government has increased the guarantee in respect of debentures issued by the Central Land Mortgage Bank to a total face value of Rs. 250 lakhs. This is exclusive of such debentures as the Bank from time to time may redeem. The debentures should be issued for periods not exceeding twenty five years bearing interest at 5% and less. It is hoped that this will give a scope for money lenders to invest their funds in these debentures. This increased guarantee goes a long way in providing funds to the big land-holders to pay off their scaled down debts. But the enormous delay in the grant of loans by land mortgage banks must be ended.

CURATIVE MEASURES.

Though the Act needs improvement in many ways it cannot be gainsaid that this measure is a bold one and unique in its character. No previous Government either in this Province or elsewhere in India has taken so serious a view of the indebtedness of the agriculturists and has been so earnest in bringing forward a measure of compulsory relief. But this Act by itself cannot bring about the economic rehabilitation of the agriculturists. Indebtedness is the result of poverty and in turn aggravates poverty. So the curative methods that are adopted should aim at rooting out poverty. Otherwise debts once wiped out may yet return.

Some of the causes of poverty of the Indian agriculturist are the low yielding capacity of the land, the steep fall in prices and the heavy incidence of land tax. Under adverse conditions due to fall in prices the half net theory of land tax has been violated. The frequent resort by Government to coercive processes for the recovery of its dues in recent years is an index of the growing distress of the people.

	FASLI			
* Coercive processes.	1342.	1343.	1344.	1345.
Demand notices ..	1,174,528	1,499,500	1,527,296	1,382,465
Distraint or attachment of notices ..	132,310	192,160	135,479	125,473
Sale notices ..	82,048	143,344	96,347	94,826
Sale (number of defaulters) ..	11,244	14,655	13,414	13,588

It must be noted that the actual sale on account of default is the index of the capacity of the ryot to pay land revenue to Government. The figures are highest for fasli 1343 when the depression reached the lowest depth. While fasli 1344 registered some recovery, the condition has worsened in fasli 1345.

It will be a great boon to the agriculturist if he is relieved of this tax burden to a certain extent. Committed to the programme of Prohibition, which if extended to the whole of the Presidency within three years will involve nearly 1/3 (4 crores) of the total revenue, Government cannot think of changing the system of land tax.

An improvement in the income of the agriculturist by raising the commodity prices as in Roumania and Czechoslovakia will prevent the recurring of indebtedness. A devaluation of the rupee will increase the income of the Indian agriculturist. But devaluation is beyond the competence of the Provincial Government and there is little chance of the Central Government supporting such a policy.

* Report of the Settlement of the Land Revenue in the Madras Presidency (Fasli 1345).

The only method possible for the Provincial Government to enable the agriculturist to get an increased income from land is by the improvement of the methods of agriculture and thereby increasing the productive capacity of the land. Better irrigation facilities should be provided to the agriculturist by devising new irrigation projects. Minor irrigation schemes throughout the Presidency should be carefully investigated and efforts made to concerve rain water by adding to the tanks and by improving and repairing them. Fragmentation and consolidation of holdings retard agricultural development to a great extent and land consolidation societies should be formed to undertake successfully the work of consolidation. Provision of subsidiary industries will go a long way in augmenting his income. The full results of an increase in agricultural production can be achieved only by proper marketing facilities.

The primary co-operative society must undertake the above schemes. But the rural society must be re-constructed and re-vitalised by a process of rectification and consolidation before it takes up this work of improvement. For some time it is necessary to invest the Government with the power of control and supervision over these societies. The society should be organised on a multi-purpose basis embracing the whole life of the village—i.e., not only credit, but methods to improve the yield of land, better marketing facilities and purchase of necessities. "Every avenue of waste should be checked and production should be developed". The system of controlled credit should be introduced in the society. Before a loan is granted by the society the supervising staff and the agricultural demonstrator should go round the area and ascertain the amount necessary for cultivation. The Society should grant the loan to the agriculturist at the proper time on a cash credit basis. The supervising staff should be careful that the instalments granted are utilised properly. The produce of the ryot should be sold through the sale section of the society. Loans for the improvement of land should be got from the land mortgage bank to which the rural society is affiliated. The sale section of the society will be responsible for repayment of the instalments both to the credit society and land mortgage bank. The society should aim at the controlled expenditure of its members through the recognised stores. This has a salutary effect of lessening the chances of loans being misapplied. An attempt has already been made in our Presidency to start a multi-purpose society on these lines. If the relief given to the agriculturists by the new Act is to be permanent, if debts once wiped out should not accumulate again, Government should encourage the formation of these multi-purpose societies, which will devise means to increase the income of the agriculturists and improve their life.

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DEBT LEGISLATION AND RURAL CREDIT IN MADRAS

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By

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Madras lagged behind the northern provinces in debt-relief legislation in spite of insistent demand. The Statute Book was adorned with a mild Debtors' Protection Act (1934) excluding from its provisions loans of over Rs. 500 and non-professional money-lenders and a Debt Conciliation Act (1936), modelled on that of the Central Provinces, but not given serious effect to. The present Ministry has more than made up for the delay in getting through early this year a piece of legislation which may be called more radical or drastic than any that has been passed or is contemplated in the rest of India. It is indeed difficult to find parallels for some of the provisions in foreign debt legislation.

I. The Agriculturists' Relief Act and its Working.

The Madras Agriculturists' Relief Act is unique, in India at any rate, in several respects. It provides for the compulsory scaling down of debts as distinguished from conciliation and settlement by agreement attempted elsewhere. It offers relief to all ryots without any upper limit, irrespective of their capacity to repay and of the status of the creditor. But it excludes from relief agriculturists paying any income-tax or a profession or property tax in a municipal area. It does not go to the aid of the landless labourer nor of any but the small zamindars and janmis. In fact it hits the bigger among the latter by wiping off old arrears of rent from their tenants. The Government have not been prepared to write off any portion of their land revenue or loan arrears which is in striking contrast to the very subordinate place given by some countries to rates and taxes in the 'Schedule of Preferences' according to which the proceeds of farms of debtors, brought under supervision or management of Boards of Farm relief, were to be distributed. All arrears of interest or debts incurred prior to 1932 are wiped off, and the debts incurred after 1932 are to be charged only 5 per cent interest up to 1st October 1937. All payments made either by way of interest or of principal are to be given credit, and if they amount to twice the principal the debt is deemed to be discharged; if less than twice, only the balance has to be paid to get a discharge. Apart from the reopening of accounts which this involves, it is a novel interpretation of the old Hindu law of *damdupat*, not in force in all parts of the Presidency. Scaling down

of interest, and of principal to a lesser extent, may be found in all debt legislation, but not the practical cancellation of debts. The maximum legal rate of interest has been fixed at 6¼ per cent for future debts; but it is alterable by the Government. Co-operative societies and certain classes of banks have been exempted from the operations of the Act unlike in the Debt Conciliation Act. No satisfactory provision has been made for setting up a machinery with legal powers and financial resources to satisfy the claims of creditors or relieve the debtors quickly, to pay off the scaled down debts to the former and recover them gradually from the latter. Doubts were entertained of the beneficent working of this Act and fears were expressed of its repercussions on rural credit.

The Government of Madras recently issued a press communique with bare figures on 'the working of the Act and the nature and extent of the relief obtained by debtors' in the half year ending with August 1938. More than 36,000 cases have been disposed of involving Rs. 76 lakhs of debts which have been scaled down to Rs. 40 lakhs, i.e., by 47 per cent. But 7000 of these cases involving Rs. 46 lakhs were applications by judgment-debtors for the amendment of decrees passed by courts already, and there were 18,700 applications for the stay of execution proceedings. But while cases of spectacular scaling down of claims by courts are reported in the newspapers, we get hardly any idea of the relief afforded to numerous deserving debtors. It must be a serious lacuna in the law if, as has been stated, the Agriculturists' Relief Act does not enable a debtor to go to Court and file an application for the settlement of his debts as he can do before the Debt Conciliation Board in Madras. At any rate, it is easier for creditors to harass the debtors who have not the means to go to Court, while if any debtor resorts to the Debt Conciliation Board, the creditors of more than 50 per cent of the amounts due may withhold their consent and thwart any agreement that may be effected by the Board which can only use methods of persuasion. The Boards must be vested with the powers of Courts, that is to say, they must be made special tribunals for the administration of the Agriculturists' Relief Act. Even before this Act was passed special officers had been appointed by the previous Government to administer loans according to the Agriculturists Loans Act amended in 1935. They had been empowered to scale down debts with the consent of creditors and they were able to scale down by as much as 33%, and in two years they granted Rs. 50 lakhs to pay off such scaled down debts. These officers have now been empowered to continue scaling down with the consent of creditors, we suppose on the scale prescribed by the Relief Act, and they are to disburse within one year Rs. 50 lakhs to pay off the scaled down debts. This is the only financial contribution made by the

Government and there is no sacrifice in it as the loans fetch an interest of 6¼ per cent, the maximum prescribed by the recent Act, which must leave an ample margin for administrative charges. Nor is there any risk involved as the security demanded is 2½ times the value of the loan and instalments are recoverable by summary procedure.

II. Repurcussions of the Act on Rural Credit.*

The fears expressed of the restriction of rural credit and of the possible evasions of the provisions of the Act relating to the rate of interest have materialised. A staunch supporter of the Act, a very eminent co-operator, wrote in September last: "The position in regard to rural credit has undergone a marked change since the passing of the Act. The obtaining of credit has become considerably more difficult to the agriculturist. It is argued in some quarters that curtailment of credit is not an evil, for it will prevent improvident and unproductive borrowing. It is a half truth. It is not merely superfluous credit that is cut out, but also necessary credit. It is overlooked that starving the agriculturist in regard to productive credit.....is far more prejudicial to our rural economy than some improvident borrowing by a few people."

Men of means, not only professional moneylenders, do not lend as freely as before even to solvent agriculturists. Fear of further legislation on moneylending and of the reduction of rates with retrospective effect, whatever be the assurances given to the contrary, is but one factor, though it is the most important. On the other hand, the conflicting decisions in different courts in the Presidency and the big appeal now being heard in the High Court of Madras on the constitutional right of a Provincial Legislature to enact the measure have engendered a hope in the minds of moneyed men that the Act may go and till then they will not lend. Sowcars are said to be 'recovering dues and keeping them safe.' The failure of the Travancore National Bank and some other banks, added to the scare, and to some extent diverted savings into the purchase of land and houses. But here again fear of tenancy legislation on radical lines checks the tendency to invest in lands. Some of the prosperous joint-stock banks and the well-established co-operative banks, Provincial, Central and Urban, have attracted deposits even from villages at low rates of interest. There is indeed a glut of money and the problem is to find safe outlets.

But it is not as though private moneylending has vanished from the village, which is a consummation devoutly wished for by

* An analysis of the answers given by several Co-operative Banks to a questionnaire issued by the Madras Provincial Co-operative Union and published in the *Madras Journal of Co-operation*, December 1938.

co-operators. Ingenious devices have been adopted by lenders to defeat or circumvent the provisions of the Agriculturists' Relief Act. Loans on the security of land can still be had at 6¼ per cent for the rich; the rates had come down so low already and the Act did not hit such investors, except with regard to old debts. In order, however, to escape the effects of retrospective regulation of rates, creditors get deeds of sales of land for moneys lent but promise to reconvey the land to the borrowers at the old price on payment of interest stipulated. Meanwhile they are supposed to be tenants, paying rents to the fictitious landlords. This is a custom common among sowcars in the North, but it has now invaded the South. Money is also lent on mortgage with possession, and interest is secured in kind, as usufructuary mortgages are not brought within the scope of the Act. Money is lent on gold with or without documents; if former, the higher rate of interest demanded is deducted from the principal in advance. If the jewel pledged is not redeemed within a definite period or a fresh deed is not executed, the jewel is auctioned. Rates of interest range from 9 to 18 per cent due to the short duration of loans.

It is on unsecured loans that the greatest ingenuity has been exercised: the borrower is an accomplice. Short term loans are given on pronotes for one or two years; the interest agreed to orally is taken in advance for the stipulated period. In districts with precarious crops, interest for three years at the rate of 12 per cent per year is deducted from the principal which is entered in full in the pronote, though the actual amount received is only 64 per cent; the legal rate of 6¼ per cent is of course found on the pronote. But "moral usury" (which is according to Jeremy Bentham, exacting a rate higher than what is usual for men to give and take) more often governs transactions. The new rate has to cover possible overhead expenses and the high risk of loss. All efforts are made to suppress prior transactions and in Salem moneylenders are said to 'have already persuaded debtors to execute fresh pronotes for principal and interest at the old rate compounded without reference to original documents.' In many municipal areas where agriculture is pursued on the outskirts, if the debtor is an agriculturist, he is made to pay higher tax and made a non-agriculturist and brought outside the pale of the Act. Payment of interest in kind is stipulated for, a practice very agreeable to merchant-cum-moneylenders. In short ryots are said to have lost credit with decent moneylenders; in popular parlance *marwadism* is rampant in rural as well as urban areas.

We are led on to think whether in all this legislation against usury or even regulation of moneylending history is not repeating itself. Usury is by no means confined to India; it is found in some

form or other and in an acute form in areas occupied by low paid industrial labourers and small peasant proprietors. It was not long ago that it was rampant in western and central European countries, where it has been subdued by co-operative credit societies; and even now it is largely prevalent in Eastern European countries; which have taken the lead in debt legislation, and co-operation has not yet taken firm root. "The radical measures adopted in some of these countries have had results contrary to what was hoped from them as they made it impossible for financial institutions to meet their obligations."

Granting the need for some sort of social control of exploitation by the moneylenders, it is wise to fix the rate in accordance with the real credit situation in the particular conditions of the country. This maxim was no doubt recognised and hence the Government have retained the power, but can it be said that it has been acted upon, when 6¼ per cent is prescribed as the maximum for all kinds of loans, secured and unsecured and for people in various degrees of distress or prosperity? In no other Province in India, which has attempted or is contemplating debt legislation, has the rate been fixed so low or the distinction between secured and unsecured debts obliterated. We trust that as was promised the rates will be revised to reflect the credit situation of solvent debtors.

III. Co-operative Credit in the Scheme.

The Government of Madras have abundant faith in the Co-operative Movement as the best agency to supply rural credit. In placing co-operative societies in a privileged position, the Premier pleaded for them in the Legislature in a way that no co-operator could have done. He stated that "it would be unfair and suicidal" to excuse agriculturists from paying their dues to societies; that the co-operative credit system was not less important than the functioning of Government; that co-operatives were, on principle at least, borrowing from among members that is from a group of agriculturists, and therefore it would be impossible to treat them as an outside body. This must have come as an agreeable surprise to co-operators, as it had become the fashion to decry co-operation even as an ideal for some years past. This attitude of Government has been more than once reiterated in recent months.

The leaders as well as the Department of Co-operation in Madras have seized the opportunity and are full of ideas of rehabilitation of the Movement. There can be no two opinions on the need to revive and develop co-operative societies of various types as in all agriculturally advanced countries. But it would be interesting to know the position and attitude of co-operative societies in schemes of debt legislation elsewhere.

There was little choice in European countries. Co-operative societies have had to bear the burden like the rest of the creditors. But they are borrowers also and they resented their enforced inability to meet their obligations to depositors. State intervention as a principle was very unwelcome to co-operators even while they recognised it as unavoidable. The State as an investor in agriculture, by virtue of its guaranteeing or paying off debtors, has been led on to take a deeper interest in the prosperity of the business and has therefore assumed functions of control of production, processing, export and import, which are anathema to co-operators, who have therefore resisted the introduction of the thin end of the wedge. Well-developed old societies in Europe have had little losses, while in the South and East of Europe the slowly built savings have been swept off, leaving a lot of discontent.

In India likewise there have not been wanting co-operators who have looked askance at the idea of debt legislation touching the carefully built reserve funds, etc. On the general effect of debt legislation on rural credit, the views of Registrars of Co-operative Societies in other Provinces, where debt conciliation schemes have been put into force are not quite so rosy. The Punjab Registrar complained that the effect was to deter moneylenders from advancing on lands and to stiffen the debtor's resistance to his creditors' demands, even when the latter is a co-operative society and in spite of ability to pay. "To evade payment was a social degradation; now it is a matter of pride. This attitude is not yet widespread but it exists. There is an increased demand for co-operative credit. In this lies both an opportunity and a danger. It is an apportunity for cautious expansion." The Registrar of Central Provinces, where the greatest amount of work has been done by way of debt settlement, points out, "one of the reasons for the low recovery in recent years has been the working of debt conciliation boards—the establishment of which was everywhere the signal for withholding payments by debtors."

It is often forgotten that a co-operative society is as much a borrower as a lender, that it has obligations to meet to depositors; that some of the good societies, especially in semi-urban areas, have paid all interest up-to-date to their financing banks from out of their collections of instalments of principal from the members, though some others have defaulted in payment of interest as well as principal. An indiscriminate application of some of the provisions of the Relief Act would simply lead to the liquidation of the financially sound societies, some of whose members might for the time being be defaulters. There are, however, valid reasons for inclusion of co-operative societies also among creditors. Special treatment to societies might mean more bad blood between them and the moneylenders, while already there is little love lost bet-

ween them. The bad debts of societies—some of them advanced recklessly in the past—must some time be written off, and it is better done at a time of general scheme of relief, with which depositors might better put up. From the point of view of the debtor too, it is desirable to deal with his entire debt. A via media was struck in the Debt Conciliation Scheme of Central Provinces, and copied in the Madras Conciliation Act of 1936, by which the debts due to co-operative societies could be dealt with, but only with the permission of the Registrar of Co-operative Societies, who would, of course, give it only in the case of societies with sufficient owned resources. The Madras Government have in the Agriculturists' Relief Act spared the Registrar this unwelcome duty and appeal to the central banks and credit societies than can afford it to try and fall in line with the measures taken by Government for the relief of the indebted agriculturist. In their view, the financial condition of several central banks in the Presidency seems to justify sacrifices on their part. It must be said to the credit of the central banks in Madras, which are the backbone of the co-operative credit structure, that they are able to attract money at very low rates of interest and lend to societies at rates varying from 4 to 5½ per cent; while most societies on their part are lending at 6¼ per cent to members—which is the lowest rate prevailing in the Movement in India. On the appeal of the Registrar, many banks have enabled societies to do away with penal rates of interest when the economic depression led to default. The Provincial Co-operative Bank at Madras is now able to offer money to central banks at 3½ per cent so that the ultimate borrowers in primary societies may not be charged more than 6¼per cent. A few crores of rupees, the apex Bank is prepared to place at the disposal of central banks and marketing societies for short term productive purposes. More deposits are bound to flow in from the investing public, provided repayment of loans is ensured by the co-operative organisations in the country.

Here indeed is the rub: the repaying capacity of a large majority of members of primary credit societies has been reduced to a very low level. Many societies are left with more or less insolvent members, the better-off having quitted societies especially after unlimited liability was enforced in certain areas, and land mortgage banks and loan and sale societies based on limited liability began to attract them. Of the 11,500 societies, only 25 per cent can be said to be working at all, and 10 per cent working well. The total outstanding loans in all societies are a little less than Rs. 5 crores only, of which a large part is frozen. Fresh loans advanced for the whole year throughout the Province went down to Rs. 90 lakhs in 1933-34, but are gradually and continuously been expanding since then and might reach Rs. 2 crores in the current year. It is part

of this expansion that we are now witnessing in co-operative societies, though the Agriculturists' Relief Act has undoubtedly given a fillip to it. Having long pursued a policy of rectification and consolidation, the Department of Co-operation has now definitely launched on a policy of encouraging the formation of new societies with a wider jurisdiction and on the basis of limited liability, which experience of unlimited liability has rendered more attractive. These societies can take up functions other than credit, particularly supply of agricultural requirements with much greater chances of success, as they are likely to have a much large number of members, including substantial agriculturists, who had been scared away by unlimited liability. We can only hope that with the generous offer of Rs. 5 crores by the Madras Provincial Co-operative Bank it will be possible to revive and strengthen a number of societies that will actively function and lead to a still further expansion so as to serve the entire countryside.

The land mortgage banks of Madras of which there are a hundred now in the Province, with the Central Land Mortgage Bank at the top to finance them by means of debentures, have had a better start and greater support from the public and the Government, than similar institutions in North India. Though less than a decade old, long term loans have been granted to the extent of Rs. 1·75 crores at less than 5 per cent to agriculturists. Another half a crore may be given in the course of this year and the Government have been pleased to increase their guarantee of debentures by Rs. 50 lakhs for the present, and have taken power to do so by another Rs. 50 lakhs, when necessary. The debentures are so highly valued that they can be floated at 3 per cent. These land mortgage banks are expected to play a special part in helping the clearance of prior debts scaled down by the application of the Act, though there is no provision to compel creditors to receive payments, as the Central Land Mortgage Bank complains. If Rs. 10 crores were available, as it should be, to the land mortgage banks, it would be possible to help almost all the smaller agriculturists with scaled down debts of less than Rs. 1,000 each, to clear off the prior debts and start on a clean slate, while for the future they must be linked up with village credit and loan and sale societies in a scheme of ' controlled credit.'

The richer ryots might be left to take care of themselves. The impecunious and the improvident among the smaller ones cannot be redeemed by legislation or other forms of State-aid. Nothing short of a missionary agency with individual personal contact can alleviate their misery. As for the rest, emergency legislation may do some good but not without being reinforced by a well-conducted co-operative organisation. The world has not known a better solution for the economic ills of the agriculturist.

G. S. PRESS, MADRAS.

[Printed under the authority of the Lieutenant Governor of the Punjab by the Superintendent of the Government Press, Punjab, Lahore.]

PUNJAB ACT NO. II OF 1913.

PASSED BY THE LIEUTENANT-GOVERNOR OF THE PUNJAB IN COUNCIL.

[*Received the assent of His Honour the Lieutenant-Governor on the 8th February* 1913, *and that of His Excellency the Viceroy and Governor-General on the 4th March* 1913: *the Governor-General's assent was first published in the* "Punjab Government Gazette" *of 14th March* 1913.]

THE REDEMPTION OF MORTGAGES ACT, 1913.

An Act to provide a summary procedure for the redemption of certain mortgages of land in the Punjab.

CONTENTS.

Preamble

Sections.

1. Title, extent and limitation of scope of Act.
2. Definitions.
3. Application of certain sections of Punjab Tenancy Act.
4. Petition for redemption.

Particulars to be contained in petition.

5. Mortgagee to be summoned.
6. Procedure when petitioner is absent and mortgagee present.

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Sections.

7. Procedure when petitioner is present and mortgagee absent.

8. Procedure when both parties are in attendance: order for redemption.

9. Procedure in contentious cases.

10. Enquiry into objection raised by mortgagee.

11. Enquiry regarding sum due.

12. Saving of suits to establish rights.

Setting aside ex-parte *orders or orders of dismissal.*

13. No second petition.

14. Return of deposit.

15. Deposit not to be attached.

16. Cessation of interest.

17. Power to make rules.

X9(J):(Z 236)
E3

The Redemption of Mortgages Act, 1913.

An Act to provide a summary procedure for the redemption of certain mortgages of land in the Punjab.

WHEREAS it is expedient to provide a summary procedure for the redemption of certain mortgages of land in the Punjab; Preamble.

It is hereby enacted as follows :—

1. (*1*) This Act may be called The Redemption of Mortgages (Punjab) Act, 1913. Title.

(*2*) It extends to the Punjab. Extent.

(*3*) It shall apply only to mortgages of land— Limitation of scope of Act to certain mortgages.

(*a*) in which, whatever the mortgage money, the land mortgaged, after excluding the area of any share in the common land of the village or of a sub-division of the village appertaining thereto and mortgaged therewith, does not exceed in area 30 acres ; or

(*b*) in which, whatever the area, the principal money secured under the mortgage does not exceed 1,000 rupees ;

Provided that it shall not apply to any mortgage made under section 6 of the Punjab Alienation of land Act, 1900. India Act XIII of 1900.

2. In this Act, unless there is something repugnant in the subject or context,— Definitions.

(*1*) the expression "Land" means land which is not occupied as the site of any building in a town or village and is occupied or let for agricultural purposes or purposes subservient to agriculture or for pasture and includes—

(*a*) the

(*a*) the site of buildings and other structures on such land ;

(*b*) a share in the profits of an estate or holding ;

(*c*) any dues or any fixed percentage of the land revenue payable by an inferior land owner to a superior land owner ;

(*d*) a right to receive rent ;

(*e*) any right to water enjoyed by the owner, or the occupier of land as such ; and

(*f*) any right of occupancy.

(2) the expression "Collector" shall mean the Collector of the district in which the mortgaged property or any part thereof is situated, and shall include an Assistant Collector of the 1st grade :

(3) "prescribed" shall mean prescribed by rules made under this Act.

India Act XVI of 1887. Application of certain sections of Punjab Tenancy Act.

3. Subject to the provisions of this Act and the rules threunder, the provisions of sections 79, 85, 86, 87, 89, 90, 91, 92 and 101 of the Punjab Tenancy Act, 1887, shall so far as may be, apply to all proceedings of a Collector under this Act.

Petition for redemption.

4. The mortgagor or other person entitled to institute a suit for redemption may, at any time after the principal money becomes payable and before a suit for redemption is barred, present a petition to the Collector applying for an order directing that his mortgage be redeemed, and where the mortgage is with possession that he be put in possession of the mortgage property. The petition shall be duly verified in the manner prescribed by law for the

Verification.

verification

verification of plaints, and shall state the sum which the petitioner declares to the best of his belief to be due under the mortgage. The petitioner shall at the same time deposit such sum with the Collector. Deposit.

The petitioner shall state in his petition such particulars and file herewith such documents as may be prescribed. Particulars to be contained in petition.

5. When the petition has been duly presented and the deposit has been made, the Collector shall issue to the mortgagee a summons to appear on a date to be therein specified. Every summon shall be accompanied by a copy of the petition, with the date of deposit endorsed thereon. Mortgagee to be summoned

6. Where the mortgagee appears and the petitioner does not appear when the petition is called on for hearing, the Collector shall, unless he adjourns the proceedings, make an order that the petition be dismissed, unless the mortgagee admits the claim, in which case the Collector shall make an order— Procedure when petitioner is absent and mortgagee present.

(*a*) that the mortgage be redeemed ;

(*b*) that where the mortgage is with possession the mortgagor be put in possession of the mortgaged property as against the mortgagee ;

(*c*) that the mortgagee deposit with the Collector the mortgage-deed, if any, if then in his possession or power, and that it be delivered to the petitioner ;

(*d*) that subject to the mortgage-deed, if any, being so deposited by the mortgagee the sum in deposit be paid to him :

Provided that no such order shall be made inconsistent with any condition of the mortgage whereby

whereby a season or period of the year is fixed for redemption or for surrendering possession.

Procedure when petitioner is present and mortgagee absent.

7. When the petitioner appears, but the mortgagee does not appear, when the petition is called on for hearing, the Collector shall, unless he adjourns the proceedings, enquire in a summary manner (*a*) whether the petitioner is entitled to redeem the mortgaged property, and (*b*) whether the sum deposited by the petitioner is the sum rightly due under the mortgage.

If the Collector is not satisfied that the petitioner is entitled to redeem, he shall dismiss the petition.

If the Collector is satisfied that the petitioner is entitled to redeem, and that the sum deposited is the sum rightly due under the mortgage, he shall make an order as laid down in section (6) (*a*), (*b*), (*c*) and (*d*) of this Act.

If the Collector is satisfied that the petitioner is entitled to redeem, but is of opinion that a sum larger than that in deposit is due under the mortgage, he shall fixed a period not exceeding 30 days within which the petitioner shall deposit the difference, together with any further sum which may be due on account of interest up to the date of deposit. If the petitioner makes such deposit within such period or such further period not exceeding 30 days as the Collector may fix, the Collector shall make an order in manner aforesaid.

If the petitioner fails to make such deposit within the period fixed, the Collector shall dismiss the petition.

Procedure when both parties are in attendance: order for redemption.

8. Where both parties appear when the petition is called on for hearing, the Collector shall enquire from the mortgagee whether he admits that

that the petitioner is entitled to redeem, whether he is willing to accept the sum in deposit in full discharge of the mortgage debt, and where the mortgage is with possession whether he is willing to surrender possession of the mortgaged property.

If the mortgagee replies in the affirmative, the Collector shall make an order as laid down in section 6 (*a*), (*b*), (*c*) and (*d*), of this Act.

If the mortgagee admits the petitioner's title to redeem, but demands payment of a sum larger than that in deposit, the Collector shall enquire from the petitioner whether he is willing to pay such larger sum, and if he replies in the affirmative, the Collector shall fix a period not exceeding 30 days within which the petitioner shall deposit the difference, together with any further sum which may be due on account of interest up to the date of deposit. If the petitioner makes such deposit within such period or such further period not exceeding 30 days as the Collector may fix, the Collector shall make an order as laid down in section 6 (*a*), (*b*), (*c*) and (*d*) above.

If the petitioner fails to make such deposit within the period fixed, the Collector shall dismiss the petition.

Procedure in contentious cases.

9. If the mortgagee raises objection on any ground other than the amount of the deposit, or if the petitioner is not willing to pay the sum demanded by the mortgagee, the Collector may either (*a*) for reasons to be recorded dismiss the petition, or (*b*) make a summary enquiry regarding the objection raised by the mortgagee or regarding the sum due.

Enquiry into objection raised by mortgagee.

10. If on enquiry regarding any objection so raised by the mortgagee the Collector is of opinion that it bars redemption or is a sufficient cause for not

not proceeding further with the petition, he shall dismiss the petition ; but if he is not of that opinion, he shall, unless he dismisses the petition under section 11, make an order as laid down in section 6 (*a*), (*b*), (*c*) and (*d*) of this Act.

Enquiry regarding sum due.

11. If on enquiry regarding the sum due the Collector is of opinion that the sum deposited is the sum rightly due under the mortgage, he shall, unless he dismisses the petition under section 10, make an order as laid down in section 6 (*a*), (*b*), (*c*) and (*d*) of this Act, but if he is of opinion that a sum larger than the sum deposited should be deposited by the petitioner, he shall, unless he dismisses the petition under section 10, fix a period not exceeding 30 days within which the petitioner shall deposit the difference, together with any further sum which may be due on account of interest up to the date of the deposit. If the petitioner makes such deposit within such period or such further period not exceeding 30 days as the Collector may fix, the Collector shall make an order as laid down in section 6 (*a*), (*b*), (*c*) and (*d*) of this Act.

If the petitioner fails to make such deposit within the period fixed, the Collector shall dismiss the petition.

Saving of suits to establish rights.

12. Any party aggrieved by an order made under sections 6, 7, 8, 9, 10 or 11 of this Act may institute a suit to establish his right in respect of the mortgage, but, subject to the result of such suit, if any, the order shall be conclusive.

Setting aside *ex-parte* orders or orders of dismissal.

Notwithstanding anything in this section a mortgagee against whom an *ex-parte* order under section 7 has been made or a petitioner whose petition has been dismissed in default under section 6 may apply to the Collector to have such order or

dismissal

dismissal set aside, and the Collector may in his discretion set aside such order or dismissal on such terms as to costs or otherwise as he may deem fit; provided that the order or dismissal shall not be set aside unless notice of the application has been served on the opposite party.

No second petition.

13. The dismissal of a petition under this Act shall bar any further petition under this Act by the same petitioner or his representative in respect of the same mortgage.

Return of deposit.

14. If the Collector dismisses a petition under this Act, he shall order that the sum deposited by the petitioner be returned to him.

Deposit not to be attached.

15. No sum deposited with the Collector by a petitioner under the provisions of this Act shall be attached by any Court or Revenue Officer.

Cessation of interest.

16. When the petitioner has deposited with the Collector the sum declared by him to be due on the mortgage, and such sum is accepted by the mortgagee, or is found by the Collector to be the sum actually due, interest on the mortgage shall cease from the date of the deposit.

Where the Collector finds that a further sum is due and the petitioner deposits such further sum, interest shall cease from the date of such further deposit:

Provided that nothing in this section shall be deemed to deprive the mortgagee of his right to interest when there exists a contract that he shall be entitled to reasonable notice before payment or tender of the mortgage money.

Provided also that where a suit is instituted under section 12, the court may pass such order as to interest as it deems fit.

Power to make rules.

17. The Local Government shall have power to make rules, consistent with this Act, for carrying out the purposes of this Act.

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GOVERNMENT OF THE PUNJAB.

LEGISLATIVE DEPARTMENT.

The Punjab Alienation of Land Act, 1900.

(ACT XIII of 1900.)

As modified up to the 1st February 1928.

Lahore :

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Table of Contents.

SECTIONS.

PRELIMINARY.

1. Short title, extent and commencement.
2. Definitions.
2A. Application of Act to sections 53 and 54, Act XVI, 1887

PERMANENT ALIENATION.

3. Sanction of Deputy Commissioner required to certain permanent alienations.
4. Agricultural tribes.
5. Saving for rights in land alienated.
6. Forms of mortgage permitted in certain cases.
7. Rules applying to permitted mortgages.
8. Conditions in permitted mortgages.
9. Power to revise mortgage made in form not permitted.
10. Future mortgage by way of conditional sale not permitted.
11. Leases and farms.
12. Restriction on power to make further temporary alienation.
13. Ejectment of mortgagee, lessee or farmer remaining in possession after term.

GENERAL PROVISIONS.

14. Effect of permanent alienation made without sanction.
15. Sanction of Deputy Commissioner required to certain alienations of or charges on produce of land.
16. Execution sale of land forbidden.
17. Registration.
18. Record-of-rights and annual record.
19. Application of certain provisions of the Punjab Land Revenue Act, 1887.
20. Appearance of legal practitioners forbidden.
21. Jurisdiction of Civil Courts excluded.
21A. Civil Court to send copy of decree or order to Deputy Commissioner. Action to be taken by Deputy Commissioner, when decree or order passed contrary to Act.
22. Addition to section 77 of Act XVI of 1887.
23. Exercise of powers of Deputy Commissioners.
24. Exemptions.
25. Power to make rules.

[1]ACT No. XIII OF 1900.

[*19th October 1900.*]

THE PUNJAB ALIENATION OF LAND ACT, 1900.

[As modified up to the 1st February 1928.]

1	2	3	4
Year.	No.	Short title.	Whether repealed or otherwise affected by legislation.
1900 ..	XIII	The Punjab Alienation of Land Act, 1900.	Rep. in part (and Amended Punjab Act, I of 1907).
			Amended in part Act, XVIII of 1919.
			Amended in part Act, XXXVIII of 1920.

An Act to amend the law relating to agricultural land in the Punjab.

WHEREAS it is expedient to amend the law relating to agricultural land in the Punjab; It is hereby enacted as follows :—

Preliminary.

1. (*1*) This Act may be called the Punjab Alienation of Land Act, 1900. Short title, extent and commencement.

(*2*) It

[1] For Statement of Objects and Reasons *see Gazette of India*, 1899, Pt. V, p. 135; for Report of the Select Committee, *see ibid*, 1900, Pt. V, p. 91; and for further Report, *see ibid*, p. 107, for Proceedings in Council *see ibid*, 1899, Pt. VI, p. 216; and *ibid* 1900, pp. 168, 177 and 193.

(*2*) It extends to all the territories for the time being administered by the [1]Lieutenant-Governor of the Punjab ; and

(*3*) It shall come into force on such day[2] as the Governor-General in Council may, by notification in the *Gazette of India*, direct.

Definitions.

2. In this Act, unless there is anything repugnant in the subject, or context,—

[3]* * * * *

XVI of 1887
XVII of 1887.

(*2*) all expressions which are defined by section 4 of the Punjab Tenancy Act, 1887, or by section 3 of the Punjab Land-revenue Act, 1887, shall, subject to the provisions of this Act, have the meanings assigned to them in the said sections respectively ; and the expressions " record-of-rights " and " annual record " shall have the meanings assigned to them respectively in Chapter IV of the said last-mentioned Act ;

(*3*) the expression " land " means land which is not occupied as the site of any building in a town or village and is occupied or let for agricultural purposes or for purposes subservient to agriculture or for pasture, and includes—

(*a*) the sites of buildings and other structures on such land ;

(*b*) a share in the profits of an estate or holding ;

(*c*) any dues or any fixed percentage of the land-revenue payable by an inferior landowner to a superior landowner ;

(*d*) a

[1] To be construed as " Governor of the Punjab," *see* s. 31 of the General Clauses Act, 1897 (X of 1897).

[2] The Act came into force on the 8th June, 1901, *see Gazette of India*, 1901, Pt. I, p. 382.

[3] Sub-section (*1*) of s. 2 and the provisos were repealed, by the Punjab Alienation of Land Amendment Act, 1907 (Punjab Act I of 1907), s. 2 (*1*).

(*d*) a right to receive rent ; and

(*e*) any right to water enjoyed by the owner or occupier of land as such :

[1] [(*f*) any right of occupancy] :

[2] [(*4*) the expression " permanent alienation " includes sales, exchanges, gifts, wills and grants of occupany rights] ;

(*5*) the expression " usufructuary mortgage " means a mortgage by which the mortgagor delivers possession of the mortgaged land to the mortgagee and authorizes him to retain such possession until payment of the mortgage money, and to receive the rents and profits of the land and to appropriate them in lieu of interest or in payment of the mortgage money or partly in lieu of interest and partly in payment of the mortgage-money : and

(*6*) the expression " conditional sale " includes any agreement whereby in default of payment of the mortgage money or interest at a certain time the land will be absolutely transferred to the mortgagee.

[3] [**2-A.** Notwithstanding anything contained in sections 53 and 54 of the Punjab Tenancy Act, 1887, when a landlord makes a claim to exercise the rights thereby conferred upon him the provisions of this Act shall apply thereto.] Application of Act to sections 53 and 54, Act XVI. 1887.

XVI of 1887.

3. (*1*) A

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[1] Sub-clause (*f*) was added by the Punjab Alienation of Land Amendment Act, 1907 (Punjab Act, I of 1907), s. 2 (*2*).

[2] Substituted for sub-section (*4*) by the Punjab Alienation of Land Amendment Act, 1907 (Punjab Act, I of 1907), s. 2 (*3*).

[3] Section 2-A was inserted by Punjab Act, I of 1907, s. 3.

Permanent Alienation of Land.

Sanction of Deputy Commissioner required to certain permanent alienations.

3. (*1*) A person who desires to make a permanent alienation of his land shall be at liberty to make such alienation where—

(*a*) the alienor is not a member of an agricultural tribe ; or

[1] * * * *

(*c*) the alienor is a member of an agricultural tribe and the alienee is a member of the same tribe or of a tribe in the same group :

[1] * * * *

(*2*) Except in the cases provided for in sub-section (*1*), a permanent alienation of land shall not take effect as such unless and until sanction is given thereto by a Deputy Commissioner :

[2] [Provided that -

(*1*) sanction may be given after the act of alienation is otherwise completed, and

(*2*) sanction shall not be necessary in the case of—

(*a*) a sale of a right of occupancy by a tenant to his landlord, or

(*b*) a gift made in good faith for a religious or charitable purpose, whether *inter vivos* or by will.]

(*3*) The Deputy Commissioner shall inquire into the circumstances of the alienation and shall have discretion to grant or refuse the sanction required by sub-section (*2*).

4. The

[1] Clause (*b*) and the proviso to sub-section (*1*) of s. 3 were repealed by the Punjab Alienation of Land Amendment Act, 1907 (Punjab Act, I of 1907) s 4 (*1*).

[2] Substituted by the Punjab Alienation of Land Amendment Act, 1907 (Punjab Act, I of 1907), s. 4 (*2*).

Agricultural tribes.

4. The Local Government shall, by notification in the local official Gazette * * * [1] determine what bodies of persons in any district or group of districts are to be deemed to be agricultural tribes or groups of agricultural tribes for the purposes of this Act.

Saving for rights in land alienated.

5. When a Deputy Commissioner sanctions a permanent alienation of land, his order shall not be taken to decide or affect any question of title, or any question relating to any reversionary right or right of pre-emption.

Temporary Alienations of Land.

Forms of mortgage permitted in certain cases.

6. (*1*) If a member of an agricultural tribe mortgages his land and the mortgagee is not a member of the same tribe, or of a tribe in the same group, the mortgage shall be made in one of the following forms :—

(*a*) in the form of a usufructuary mortgage, by which the mortgagor delivers possession of the land to the mortgagee and authorizes him to retain such possession and to receive the rents and profits of the land in lieu of interest and towards payment of the principal, on condition that after the expiry of the term agreed on or (if no term is agreed on, or if the term agreed on exceeds twenty years), after the expiry of twenty years, the land shall be redelivered to the mortgagor ; or

(*b*) in

[1] The words " published with the previous sanction of the Governor-General in Council " were repealed by the Punjab Alienation of Land Amendment Act, 1907 (Punjab Act, I of 1907), s. 5.

(*b*) in the form of a mortgage without possession, subject to the condition that, if the mortgagor fails to pay principal and interest according to his contract, the mortgagee may apply to the Deputy Commissioner to place him in possession for such term not exceeding twenty years as the Deputy Commissioner may consider to be equitable, the mortgage to be treated as a usufructuary mortgage for the term of the mortgagee's possession and for such sum as may be due to the mortgagee on account of the balance of principal due and of interest due not exceeding the amount claimable as simple interest at such rate and for such period as the Deputy Commissioner think reasonable ; or

(*c*) in the form of a written usufructuary mortgage by which the mortgagor recognises the mortgagee as a landlord and himself remains in cultivating occupancy of the land as a tenant subject to the payment of rent at such rate as may be agreed upon not exceeding sixteen annas per rupee of the amount of the land-revenue in addition to the amount of the land-revenue of the tenancy and the rates and cesses chargeable thereon and for such term as may be agreed on, the mortgagor having no right to alienate his right of cultivating occupancy and the mortgagee having no right to eject the mortgagor unless on the grounds mentioned in section 39 of the Punjab Tenancy Act, 1887 ; or

XVI of 1887.

(*d*) in

(*d*) in any form which the Local Government may, by general or special order, permit to be used.

(*2*) If in the case of a mortgage in form (*c*) the mortgagor is ejected or relinquishes or abandons cultivating occupancy of the land, the mortgage shall take effect as a usufructuary mortgage in form (*a*) for such term not exceeding twenty years from the date of ejectment, relinquishment or abandonment, and for such sum of money as the Deputy Commissioner considers to be reasonable.

[1][(*3*) The Deputy Commissioner, if he accepts the application of a mortgagee under sub-section (*1*) (*b*), shall have power to eject the mortgagor, and as against the mortgagor to place the mortgagee in possession.]

Rules applying to permitted mortgages.

7. In the case of mortgages made under section 6—

(*1*) no interest shall accrue during the period for which the mortgagee is in possession of the land or in receipt of rent;

(*2*) if the mortgage is in form (*a*) or form (*b*), then at the end of such period of possession the mortgage-debt shall be extinguished;

(*3*) the mortgagor may redeem his land at any time during the currency of the mortgage, on payment of the mortgage-debt or, in the case of a mortgage in form (*a*) or form (*b*), of such proportion of the mortgage-debt as the Deputy Commissioner determines to be equitable; and

(4) in

[1]Sub-section (*3*) was inserted by the Punjab Alienation of Land Amendment Act, 1907 (Punjab Act, I of 1907), s. 6.

(*4*) in the case of a usufructuary mortgage, the mortgagor shall not be deemed to bind himself personally to repay the mortgage-money.

[1] [(*5*) if a mortgagor who has applied to the Deputy Commissioner under sub-section (*3*) proves to the satisfaction of the Deputy Commissioner that he has paid the mortgage-debt or such proportion of the mortgage-debt as the Deputy Commissioner has determined to be equitable, or deposits with the Deputy Commissioner the amount of such mortgage-debt or of such proportion thereof the redemption of the land shall be deemed to have taken place, and the Deputy Commissioner shall have power to eject the mortgagee, if in possession, and as against the mortgagee to place th mortgagor in possession.]

Conditions in permitted mortgages.

8. (*1*) In a mortgage made under section 6, the following conditions may be added by agreement between the parties :—

(*a*) a condition fixing the time of the agricultural year at which a mortgagor redeeming his land may resume possession thereof;

(*b*) conditions limiting the right of a mortgagor or mortgagee in possession to cut, sell or mortgage trees or to do any act affecting the permanent value of the land ; and

(*c*) any condition which the Local Government by general or special order may declare to be admissible.

(*2*) In

[1]Sub-section (*5*) was inserted by Punjab Act, I of 1907, s. 7.

(2) In mortagages made under section 6 any condition not permitted by or under this Act shall be null and void.

Powers to revise mortgage made in form not permitted.

9. (1) If a member of an agricultrual tribe makes a mortgage of his land in any manner or form not permitted by or under this Act, the Deputy Commissioner shall have authority to revise and alter the terms of the mortgage so as to bring it into accordance with such form of mortgage permitted by or under this Act as the mortgagee appears to him to be equitably entitled to claim.

(2) If a member of an agricultural tribe has before the commencement of this Act made a mortgage of his land in which there is a condition intended to operate by way of conditional sale, the Deputy Commissioner shall be empowered at any time during the currency of the mortgage to put the mortgagee to his election whether he will agree to the said condition being struck out, or to accept in lieu of the said mortgage a mortgage which may at the mortgagee's option be either in form (*a*) or in form (*b*) as permitted by section 6 and which shall be made for such period not exceeding the period permitted by the said section and for such sum of money as the Deputy Commissioner considers to be reasonable.

(3) If proceedings for the enforcement of a condition intended to operate by way of conditional sale are instituted or are pending at the commencement of this Act in any Civil Court, or if a suit is instituted in any Civil Court on a mortgage to which sub-section (1) or sub-section (2) applies, the Court shall refer the case to the Deputy Commissioner with a view to the exercise of the power conferred by the sub-section applying thereto.

[1][(4) When

[1][(4) When a mortgagee put to his election under sub-section (2) agrees to accept in lieu of his mortgage, a mortgage in form (*a*) or in form (*b*) as permitted by section 6 for the period and for the sum of money considered by the Deputy Commissioner to be reasonable, and the mortgagor cannot be found, or fails to appear when duly served with notice to do so, or refuses or neglects to execute such mortgage, the Deputy Commissioner shall have authority to execute such mortgage on such terms as to costs as he may fix and the mortgage so executed shall have effect as if it had been executed by the mortgagor. The Deputy Commissioner may for any reason which he deems sufficient set aside any *ex-parte* proceedings taken under this sub-section.]

Future mortgage by way of conditional sale not permitted.

10. In any mortgage of land made after the commencement of this Act any condition which is intended to operate by way of conditional sale shall be null and void.

Leases and farms.

11. Any member of an agricultural tribe may make a lease or farm of his land for any term not exceeding twenty years, and any lease or farm made by a member of an agricultural tribe for a longer term than twenty years shall, if the lessee or farmer is not a member of the same tribe or of a tribe in the same group, be deemed to be a lease or farm for the term permitted by this section.

Restriction on power to make further temporary alienation.

12. (*1*) During the currency of a mortgage made under section 6 in form (*a*) or form (*b*) or of a lease or farm under this Act, the owner shall be at liberty to make a further temporary alienation of the same land for such terms as together with the term of the current mortgage, lease or farm will make up a term not exceeding the full term of twenty years.

(*2*) Any

[1]Sub-section (*4*) was inserted by the Punjab Alienation of land Amendment Act, 1907 (Punjab Act, I of 1907), s. 8.

(2) Any such further temporary alienation if made for a longer term than is permitted by this section, shall be deemed to be a temporary alienation for the term permitted by this section.

Ejectment of mortgagee, lessee or farmer remaining in possession after term.

13. If a mortgagee, lessee or farmer holding possession under a mortgage made under section 6 or under a lease or farm made under section 11 or under a mortgage, lease or farm made under section 12 remains in possession after the expiry of the term for which he is entitled to hold under his mortgage, lease or farm the Deputy Commissioner may, of his own motion or on the application of the person entitled to possession, eject such mortgagee, lessee or farmer and place the person so entitled in possession.

General Provisions.

Effect of permanent alienation made without sanction.

14. Any permanent alienation which under section 3 is not to take effect as such until the sanction of a Deputy Commissioner is given thereto shall, until such sanction is given or if such sanction has been refused, take effect as a usufructuary mortgage in form (*a*) permitted by section 6 for such term not exceeding twenty years and on such conditions as the Deputy Commissioner considers to be reasonable.

Sanction of Deputy Commissioner required to certain alienations of or charges on produce of land.

15. Every agreement whereby a member of an agricultural tribe purports to alienate or charge the produce of his land or any part of, or share in, such produce for more than one year shall not take effect for more than one year from the date of the agreement unless the sanction of a Deputy Commissioner is given thereto, and shall, until such sanction is given or if such sanction is refused, take effect as if it had been made for one year.

Explanation.—The

Explanation.—The produce of land means—

(*a*) crops and other products of the earth standing or ungathered on the holding ;

(*b*) crops and other products of the earth which have been grown on the land during the past year and have been reaped or gathered.

Execution sale of land forbidden.

16. (*1*) No land belonging to a member of an agricultural tribe shall be sold in execution of any decree or order of any Civil or Revenue Court, whether made before or after the commencement of this Act.

(*2*) Nothing in this section shall affect the right of Government to recover arrears of land revenue, or any dues which are recoverable as arrears of land-revenue, in any manner now permitted by law.

Registration.

17. Nowithstanding anything in the Indian Registration Act, 1877[1], or in any rule made under section 69 of that Act,— III of 1877.

(*1*) an instrument which contravenes any provision of this Act shall not be admitted to registration ;

(*2*) an instrument which records or gives effect to any transaction which requires the sanction of a Deputy Commissioner shall not be admitted to registration, until a certified copy of the order giving such sanction is produced to the officer empowered to register such instrument.

18. (1)

[1] *See now* the Indian Registration Act, 1908 (XVI of 1908).

Record-of-rights and annual record.

18. (*1*) Where, by reason of any transaction which under this Act requires the sanction of a Deputy Commissioner, a person claims to have acquired a right the acquisition whereof he is bound to report under section 34 of the XVII of 1887. Punjab Land-revenue Act, 1887, such person shall, in making his report, state whether the sanction required has been obtained or not, and his right so acquired shall not be entered in the record-of-rights or in any annual record until he produces such evidence of the order by which such sanction is given as may be required by any rules made under this Act.

(*2*) No right claimed by reason of any transaction or condition which is declared by this Act to be null and void shall be entered in the record-of-rights or in any annual record.

Application of certain provisions of the Punjab Land-revenue Act, 1887.

19. [1]Subject to the provisions of this Act, the provisions of Chapter II of the Punjab XVI of 1887. Land-revenue Act, 1887, shall, in so far as they are applicable, apply to the proceedings of Revenue-officers under this Act.

Appearance of legal practitioners forbidden.

20. No legal practitioner shall appear on behalf of any party interested in any proceeding before a Revenue-officer under this Act.

Explanation.—The term "legal practitioner" includes a mukhtar.

Jurisdiction of Civil Courts excluded.

21. (*1*) A Civil Court shall not have jurisdiction in any matter which the Local Government or a Revenue-officer is empowered by this Act to dispose of.

(*2*) No Civil Court shall take cognizance of the manner in which the Local Government or any Revenue-officer exercise any power vested in it or in him by or under this Act.

[1][21-A. (*1*)

[1]For rules to be read as added to Chap. V of rules made under Act, XVII of 1887, *see Punjab Gazette*, Extraordinary, dated 25th May 1901, p. 4.

Civil Court to send copy of decree or order to Deputy Commissioner.

[1][21-A. (1) Notwithstanding anything contained in the [2]Code of Civil Procedure or in any other Act for the time being in force, every Civil Court which passes a decree or order involving (1) the permanent alienation of his land by a member of an agricultural tribe or (2) the mortgage by a member of an agricultural tribe of his land when the mortgagee is not a member of the same tribe or of a tribe in the same group, shall send to the Deputy Commissioner a copy of such decree or order. XIV of 1882.

Action to be taken by Deputy Commissioner when decree or order passed contrary to Act.

(2) When it appears to the Deputy Commissioner that any Civil Court has either before or after the date when this section comes into operation, passed a decree or order contrary to any of the provisions of this Act, the Deputy Commissioner may apply for the revision of such decree or order to the Court, if any, to which an appeal would lie from such decree or order or in which an appeal could have been instituted at the time when the decree or order was passed or in any other case to the [3]High Court]. And when the Court finds that such decree or order is contrary to any of the provisions of this Act it shall alter it so as to make it consistent with this Act. Such application shall be made within two months of the date upon which the Deputy Commissioner is informed of such decree or order.

(3) When any such Appellate Court passes an order, rejecting such application the Deputy Commissioner may, within two months after the date upon which he is informed of such order apply to the [3][High Court] for revision thereof.

(4) Every

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[1]Section 21-A was inserted by the Punjab Alienation of Land Amendment Act, 1907 (Punjab Act, I of 1907), s. 9.

[2]*See now* Act V of 1908.

[3]Substituted for the words "Chief Court" by Act XVIII of 1919.

(*4*) Every Civil Court which passes an order on any application made under this section shall forthwith send a copy thereof to the Deputy Commissioner.

(*5*) No stamp shall be required, upon such applications, and the provisions of the [1]Code of XIV of 1882 Civil Procedure as regards appeals shall apply so far as may be to the procedure of the Court on receipt of such application :

Provided that no appearance by or on behalf of the Deputy Commissioner shall be deemed necessary for the disposal of the application.]

Addition to section 77 of Act XVI, of 1887.

22. In sub-section (*3*) of section 77 of XVI of 1887. the Punjab Tenancy Act, 1887, the following words shall be added to clause (*c*) of the First Group of suits therein mentioned, namely :—

" and suits relating to the rent to be paid under a mortgage made in accordance with form (*c*) as prescribed by section 6 of the Punjab Alienation of Land Act, 1900."

Exercise of powers of Deputy Commissioners.

23. The powers conferred by this Act upon a Deputy Commissioner may be exercised by a Revenue-officer of higher rank, or by any officer authorized by the Local Government in this behalf.

Exemption.

24. The Local Government [* * * [2]] may, by notification[3] in the local official Gazette, exempt any district or part of district or any person or class of persons from the operation of this Act or of any of the provisions thereof.

25. (*1*) The

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[1] *See now* Act V of 1908.

[2] The words " with the previous sanction of the Governor-General in Council " were omitted by the Devolution Act, 1920 (XXXVIII of 1920), s. 2, and Sch. 1.

[3] For districts exempted under this section, *see Punjab Gazette*, 1901, Pt. 1, p. 1096 ; *ibid*, 1902. P. I, p. 418, and for notification exempting every area included in any Cantonment or Municipality except those in the Simla District from the operation of the provisions of the Act, except s 1. s 2 (*1*), (*2*), (*3*) and (*6*) ; ss. 4, 10, 16 and 18 (*2*) and ss, 21 (*2*) and 24 *see ibid*.

Power to make rules.

25. (*1*) The Local Government may make rules[1] for carrying into effect the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, the Local Government may make rules[1] prescribing the Revenue-officers to whom applications may be made, and the manner and form in which such applications shall be made and disposed of.

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[1]For the rules under this section, *see Punjab Gazette*, 1901, Pt. I, p. 1176; *Gazette of India*, 1904, Pt. II, pp. 826-27.

7 LR—500—26-5-31—SGPP Lahore.

THE PUNJAB ALIENATION OF LAND (AMENDMENT) ACT, 1931.

PUNJAB ACT I OF 1931.

[PASSED BY THE LOCAL LEGISLATURE OF THE PUNJAB.]

[*Received the assent of His Excellency the Governor on the 27th May 1931 and that of His Excellency the Viceroy and Governor-General on the 23rd June 1931, and was first published in the* Punjab Gazette, *Extraordinary, of the 1st July 1931.*]

AN ACT TO AMEND THE PUNJAB ALIENATION OF LAND ACT, 1900.

Preamble.

WHEREAS it is expedient further to amend the Punjab Alienation of Land Act, 1900, in the manner hereinafter appearing, and whereas the previous sanction of the Governor-General under sub-section (3) of section 80-A of the Government of India Act has been obtained ; it is hereby enacted as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Punjab Alienation of Land (Amendment) Act, 1931.

(*2*) It shall come into force at once.

Amendment of section 16 of the Punjab Alienation of Land Act, 1900.

2. Sub-section (*2*) of section 16 of the Punjab Alienation of Land Act, 1900, shall be renumbered as sub-section (*3*) of section 16, and the following sub-

Price : Re. 0-1-0.

sub-section shall be inserted as sub-section (*2*) of that section, namely :—

"(*2*) Notwithstanding anything contained in any other enactment for the time being in force no land belonging to a member of an agricultural tribe shall, in execution of any decree or order of any civil or revenue court, whether made before or after the enactment of this sub-section, be leased or farmed for a period exceeding 20 years or mortgaged except in one of the forms permitted by section 6."

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13 LR—800—28 7-31—SGPP Lahore.

GOVERNMENT OF THE PUNJAB.

LEGISLATIVE DEPARTMENT.

THE PUNJAB REGULATION OF ACCOUNTS ACT, 1930.

PUNJAB ACT I OF 1930.

Lahore :

Printed by the Superintendent, Government Printing, Punjab.

1931.

Price : Re. 0-3-0.

X9(J):(Z236)
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TABLE OF CONTENTS.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.
3. Duty of creditor to maintain and furnish accounts.
4. Penalty for non-compliance with the provisions of section 3.
5. Savings.
6. Power of Local Government to make rules.

The Punjab Regulation of Accounts Act, 1930.

Punjab Act I of 1930.

(*Received the assent of His Excellency the Governor on the 19th January 1930, and that of His Excellency the Viceroy and Governor-General on the 9th March 1930, and was first published in the* Punjab Government Gazette *of the 21st March 1930* :—

An Act to regulate the keeping of accounts of certain transactions.

WHEREAS it is expedient to make provision for regulating the keeping of accounts relating to certain transactions in the Punjab, and whereas the previous sanction of the Governor General under section 80-A (3) of the Government of India Act has been obtained ; it is hereby enacted as follows :— Preamble.

1 (*1*) This Act may be called the Punjab Regulation of Accounts Act, 1930. Short ti extent an commence ment.

(*2*) It extends to the Punjab.

(*3*) It shall come into force on such date as the Local Government may, by notification, appoint in this behalf :

Provided that this date shall not be earlier than six months or later than one year after the date of final publication of the rules made under section 6.

2. In this Act, unless there is anything repugnant in the subject or context— Definition

(*1*) "Bank" means a company carrying on the business of banking and registered under any of the enactments relating to companies for the time being in force in the United Kingdom or in any of the Colonies or Dependencies thereof or in British India or incorporated by an Act of Parliament or by Royal Charter or Letters Patent or by any Act of the Indian Legislature.

(*2*) "Companies"

(2) "Company" means a company registered under any of the enactments relating to companies for the time being in force in the United Kingdom or any of the Colonies or Dependencies thereof or in British India or incorporated by an Act of Parliament or by Royal Charter of Letters Patent and includes Life Assurance Companies to which the Indian Life Assurance Companies Act, 1912, applies.

(3 "Co-operative Society" means a society registered under the provisions of Co-operative Societies Act, 1912.

(4) "Court" includes a court acting in the exercise of insolvency jurisdiction.

(5) "Creditor" means a person who in the regular course of business advances a loan as defined in this Act and shall include subject to the provisions of section 3 the legal representatives and the successor-in-interest whether by inheritance, assignment or otherwise of the person who advanced the loan.

(6) "Interest" includes the return to be made over and above what was actually lent, whether the same is charged or sought to be recovered specifically by way of interest or otherwise.

(7) "Loan" means an advance whether of money or in kind at interest and shall include any transaction which the court finds to be in substance a loan, but it shall not include—

(*i*) a deposit of money or other property in a Government Post Office Bank or any other Bank or in a company or with a co-operative society;

(*ii*) a loan to or by or a deposit with any society or association registered under the Societies Registration Act, 1860, or under any other enactment;

(*iii*) a loan advanced by Government or by any local body authorised by Government;

(*iv*) a loan

(*iv*) a loan advanced by a bank, a co-operative society or a company whose accounts are subject to audit by a certificated auditor under theCompanies Act ;

(*v*) a loan advanced to a trader ;

(*vi*) an advance made on the basis of a negotiable instrument as defined in the Negotiable Instruments Act, 1881. other than a promissory note ;

(*vii*) a transaction which is, in substance, a mortgage or a sale of imm veable property.

(*8*) " Prescribed " means prescribed by rules made under this Act.

(*9*) " Trader " means a person who in the regular course of business buys and sells goods or other property, whether moveable or immoveable, and shall include—

a wholesale or a retail merchant,

a commission agent,

a broker,

a manufacturer,

a contractor,

a factory owner,

but shall not include a person who sells his own agricultural produce or cattle, or buys agricultural produce or cattle for his own use.

Duty of creditor to maintain and furnish accounts.

3. (*1*) A creditor shall in order to comply with the provisions of this Act –

(*a*) regularly record and maintain an account for each debtor separately, of all transactions relating to any loan advanced to that debtor, in such manner as the Local Government may prescribe.

(*b*) furnish

(*b*) furnish each debtor every six months with a legible statement of account signed by the creditor or his agent of any balance or amount that may be outstanding against such debtor on the 30th day of June or 15th Har and the 31st day of December or 15th Poh in each year This statement of account shall include all transactions relating to the loan entered into during the six months to which the statement relates, and shall be sent, in such manner and in such form and containing such details as the Local Government may prescribe, on or before the 31st day of August or 15th Bhadon in the case of any balance outstanding on the 30th day of June or 15th Har and on or before the 28th day of February or 15th Phagan in the case of any balance outstanding on the 31st day of December or 15th Poh

Explanation :—(*i*) The Local Government shall prescribe the forms and numerals in which the accounts required by this provision of this subsection are to be maintained and furnished, and the creditor shall at his option use one of the following scripts and languages, namely—English, Urdu, Gurmukhi, Nagri or Mahajani: Provided that if the debtor in writing demands that the account be furnished in any one of the above scripts it shall be supplied to him in that script at his cost according to the scale prescribed ;

(*ii*) the prescribed accounts shall be so kept that items due by way of interest shall be shown as separate and distinct from the principal sum, and separate totals of principal and interest shall be maintained. The creditor shall not in the absence of agreement, include the interest or any portion of it in the principal sum ; and the principal and interest shall be separately.

shown

shown in the opening balance of each new six-monthly account :

Provided that—

(*i*) if the loan has since it was originally advanced, passed by inheritance or assignment to a widow or minor, such widow or minor shall not be bound to maintain and furnish the account prescribed by this section for a period of six months from the date of such passing ;

(*ii*) nothing in this section shall be deemed to lay upon any person the duty of maintaining and furnishing the prescribed account in the case of a loan wherein the title to recover is *sub-judice* between two or more persons claiming as creditors adversely to each other unless and until the title has been finally decided by a court of competent jurisdiction.

(*2*) Entries in the account prescribed under clause (*a*) to sub-section (*1*) shall be deemed to be regularly kept in the course of business for the purposes of section 34, Indian Evidence Act, 1872, and copies of such entries certified in such manner as may be prescribed shall be admissible in evidence for any purpose in the same manner and to the same extent as the original entries.

Explanation.—A person to whom a statement of account has been sent under clause (*b*) of sub-section (*1*) shall not be bound to acknowledge or deny its correctness and his failure to protest shall not, by itself, be deemed to be an admission of correctness of the account.

Penalty for non-compliance with the provision of section 3.

4. Notwithstanding anything contained in any other enactment in force for the time being—

(*a*) in any suit or proceeding relating to a loan the court shall, before deciding the claim on the merits, frame and decide the issue, whether

whether the creditor has complied with the provisions of clauses (*a*) and (*b*) of sub-section (*1*) of section 3 ;

(*b*) if the court finds that the provisions of clause (*a*) of sub-section (*1*) of section 3 have not been complied with by the creditor, the court shall, if the plaintiff's claim is established in whole or in part, disallow the whole or a portion of the interest found due, as may seem reasonable to the court in the circumstances of the case and shall disallow costs ;

(*c*) if the court finds that the provisions of clause (*b*) of sub-section (*1*) of section 3 have not been complied with by the creditor, the court shall in computing the amount of interest due upon the loan exclude every period for which the creditor omitted duly to furnish the account as required by clause (*b*) of sub-section (*1*) of section 3 : provided that if the creditor has after the time prescribed in that clause furnished the account and the plaintiff satisfies the court that he had sufficient cause for not furnishing it earlier, the court may, notwithstanding such omission, include any such period or periods for the purpose of computing the interest.

Explanation. - A person who has kept his account and sent his six-monthly statements of accounts in the form and manner prescribed in clauses (*a*) and (*b*) of sub-section (*1*) of section 3 shall be held to have complied with the provisions of these clauses, in spite of errors and omissions, if the court finds that the errors and omissions are accidental and not material and that the accounts have been kept in good faith with the intention of complying with the provisions of these clauses.

5. The

Savings.

5. The provisions of this Act shall not apply to any loan advanced before the commencement of this Act:

Provided that if any fresh transaction relating to a loan advanced before the commencement of this Act is made after the commencement of this Act, such transaction shall be subject to the provisions of this Act:

Powers of Local Government to make rules.

6. (*1*) The Local Government may make rules not inconsistent with the Act for the purposes of carrying out all or any of the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, the Local Government may make rules—

(*i*) prescribing the forms and numerals to be used in the accounts required by sub-section (*1*) of section 3 ;

(*ii*) prescribing the manner in which the accounts required by clause (*b*) of sub-section (*1*) of section 3 shall be furnished by the creditor to the debtor, the forms to be used, and the details to be incorporated therein and the scale of costs to be paid by such debtors as may demand that the account required by this clause should be furnished in one of the particular scripts mentioned in Explanation (*i*) of this clause :

Provided that before making any rules under the provisions of this section, the Local Government shall, in addition to observing the procedure laid down in section 21 of the Punjab General Clauses Act, 1898, publish by notification a draft of the proposed rules for the information of persons likely to be affected thereby, at least thirty days before a meeting of the Punjab Legislative Council. The Local Government shall defer consideration of such rules until after the meeting of the Punjab Legislative Council next following the publication of the draft, in order to give any member of the Council an opportunity to introduce a motion for discussing the draft.

11 LR—500—16-7-31—SGPP Lahore.

GOVERNMENT OF THE PUNJAB.

LEGISLATIVE DEPARTMENT.

THE PUNJAB LAND REVENUE ACT, 1887.

ACT XVII OF 1887.

As modified upto 1st January 1930.

(24)

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1934.

Price : Re. 1-0-0 or 1*s*. 6*d*.

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THE PUNJAB LAND REVENUE ACT, 1887.

ACT No. XVII OF 1887.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor-General on the 23rd September 1887.*)

As amended by
ACT XII OF 1891,
ACT XVII OF 1896,
PUNJAB ACT I OF 1899,
PUNJAB ACT II OF 1905,
ACT IV OF 1907,
PUNJAB ACT II OF 1912,
PUNJAB ACT V OF 1912,
ACT IV OF 1914,
ACT XXXVIII OF 1920,
PUNJAB ACT III OF 1928,
PUNJAB ACT VII OF 1929.

AN ACT TO AMEND AND DECLARE THE LAND-REVENUE LAW OF THE PUNJAB.

WHEREAS it is expedient to amend and declare the law in force in the Punjab with respect to the making and maintenance of records-of-rights in land, the assessment and collection of land-revenue and other matters relating to land and the liabilities incident thereto ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (*1*) This Act may be called the Punjab Land Revenue Act, 1887.

(*2*) It extends to the territories for the time being administered by the *Lieutenant-Governor of the

*To be construed now as "Governor," *see* section 31 of the General Clauses Act 1897 (X of 1897).

the Punjab, including the pargana of Spiti, but not so as to affect, otherwise than as expressly provided by this Act, any Regulation in force under the provisions of the Statute, 33, Victoria, chapter 3, section 1, in any portion of those territories ; and

(*3*) It shall come into force on such day as the Local Government, with the previous sanction of the Governor-General in Council, may by notification appoint in this behalf.*

(*4*) *Repealed by Act XII of 1891.*

Repeal. **2.** (*1*) The enactments mentioned in the schedule are repealed to the extent specified in the third column thereof.

(*2*) But all rules, appointments, assessments and transfers made, notifications and proclamations issued, authorities and powers conferred, farms and leases granted, records-of-rights and other records framed, revised or confirmed, rights acquired, liabilities incurred, times and places appointed and other things done, under any of the repealed enactments shall, so far as may be, deemed to have been respectively made, issued, conferred, granted, framed, revised, confirmed, acquired, incurred, appointed and done under this Act.

(*3*) Any enactment or document referring to any enactment hereby repealed shall be construed as referring to this Act.

Definitions. **3.** In this Act, unless there is something repugnant in the subject or context.

(*1*) " estate " means any area—

(*a*) for which a separate record-of-rights has been made ; or

(*b*) which has been separately assessed to land-revenue, or would have been so assessed

*The Act came into force on 1st November 1887 (Notification No 727, dated 1st November 1887).

assessed if the land-revenue had not been released, compounded for or redeemed; or

(*c*) which the Local Government may, by general rule or special order, declare to be an estate.

(*2*) " land-owner " does not include a tenant or an assignee of land revenue, but does include a person to whom a holding has been transferred, or an estate or holding has been let in farm, under this Act for the recovery of an arrear of land-revenue or of a sum recoverable as such an arrear, and every other person not hereinbefore in this clause mentioned who is in possession of an estate or any share or portion thereof, or in the enjoyment of any part of the profits of an estate;

(*3*) "holding" means a share or portion of an estate held by one land-owner or jointly by two or more land-owners;

(*4*) " rent, " " tenant, " " landlord " and " tenancy " have the meanings, respectively, assigned to those words in the Punjab Tenancy Act, 1887; VI of 1887.

(*5*) " pay, " with its grammatical variations and cognate expressions, includes when used with reference to rent, " deliver " and " render, " with their grammatical variations and cognate expressions;

(*6*) " land-revenue " includes assigned land-revenue and any sum payable in respect of land, by way of quit-rent or of commutation for service, to Government or to a person to whom the Government has assigned the right to receive the payment;

(*7*) " arrear of land-revenue " means land-revenue which remains unpaid after the date on which it becomes payable;

(*8*) " defaulter "

(*8*) "defaulter" means a person liable for an arrear of land-revenue, and includes a person who is responsible as surety for the payment of the arrear :

(*9*) "rates and cesses" means rates and cesses which are primarily payable by land owners, and includes—

(*a*) *Repealed by Act XII of 1891.*

(*b*) the local rate, if any, payable under the Punjab District Boards Act, 1883, and any fee leviable under section 33 of that Act from land-owners for the use of or benefits derived from such works as are referred to in section 20, clauses (*i*) and (*j*), of that Act ; XX of 1883.

(*c*) any annual rate chargeable on owners of lands under section 59 of the Northern India Canal and Drainage Act, 1873* ; VIII of 1873

(*d*) the zaildari and village-officers' cesses ; and

(*e*) sums payable on account of village expenses ;

(*10*) "village-cess" includes any cess, contribution or due which is customarily leviable within an estate and is neither a payment for the use of private property or for personal service nor imposed by or under any enactment for the time being in force :

(*11*) "village-officer" means a chief-headman headman or patwari :

(*12*) "Revenue-officer" in any provision of this Act, means a Revenue-officer having authority under this Act to discharge the functions of a Revenue-officer under that provision :

(*13*) "legal practitioner" means any legal practitioner within the meaning of the Legal Practitioners Act, 1879, except a mukhtar : XVIII 1879.

(*14*) "agricultural

*This must not be confounded with owner's rate assessed under sectio 37 of Act VIII of 1873.

(*14*) " agricultural year " means the year commencing on the sixteenth day of June, or on such other date as the Local Government may be notification appoint for any local area :

(*15*) " notification " means a notification published by authority of the Local Government in the official Gazette :

(*16*) " incumbrance " means a charge upon or claim against land arising out of a private grant or contract :

(*17*) " survey-mark " includes boundary-mark : and

Punjab Act I of 1923.

(*18*) " Net-assets " of an estate or group of estates means the estimated average annual surplus produce of such estate or group of estates remaining after deduction of the ordinary expenses of cultivation as ascertained or estimated.

Explanation.—Ordinary expenses of calculation include payments, if any, which the land-owner customarily bears whether in kind or in cash either in whole or in part in respect of—

(1) water rates,

(2) maintenance of means of irrigation,

(3) maintenance of embankments,

(4) supply of seed,

(5) supply of manure,

(6) improved implements of husbandry,

(7) concessions with regard to fodder,

(8) special abatements made for fallows or bad harvests,

(9) cost of collection of rent,

(10) allowance for shortage in collection of rent,

(11) interest

(11) interest charges payable in respect of advances made in cash, free of interest, to tenants for the purpose of cultivation.

(12) wages or customary dues paid to artisans or menials whose products or labour are utilised for the purposes of cultivation and harvesting,

and the share that would be retainable by a tenant if the land were let to a non-occupancy tenant paying rent, whether in cash or in kind, at the normal rate actually prevalent in the estate or group of estates.

(*19*) "Assessment Circle" means a group of estates which in the opinion of the Financial Commissioner, to be recorded in an order in writing, are sufficiently homogeneous to admit of a common set of rates being used as a general guide in calculating the land revenue to be assessed upon them.

Exclusion of certain land from operation of Act.

4. (*1*) Except so far as may be necessary for the record, recovery and administration of village-cesses, nothing in this Act applies to land which is occupied as the site of a town or village and is not assessed to land-revenue.

(*2*) A Revenue-Officer may define, for the purposes of this Act the limits of any such land.

Power to vary limits and alter number of tahsils, districts and divisions.

5. The Local Government may by notification vary the limits of the tahsils, districts and divisions into which the territories administered by it are divided, and may by notification alter the number of those tahsils *and districts* and, with the previous sanction of the Governor-General in Council, the number of those divisions. XXX VIII of 1920.

CHAPTER II.

REVENUE-OFFICERS.

Classes and powers.

Classes of revenue-officers.

6. (*1*) There shall be the following classes of Revenue-officers, namely :—

(*a*) the Financial Commissioner ;

(*b*) the

(*b*) the Commissioner;

(*c*) the Collector;

(*d*) the Assistant Collector of the first grade; and

(*e*) the Assistant Collector of the second grade.

(*2*) The Deputy Commissioner of a district shall be the Collector thereof.

(*3*) The Local Government may appoint any Assistant Commissioner, Extra Assistant Commissioner or Tahsildar to be an Assistant Collector of the first or of the second grade, as it thinks fit, and any Naib-Tahsildar to be an Assistant Collector of the second grade.*

(*4*) Appointment under sub-section (*3*) shall be by notification and may be of a person specially by name or by virtue of his office or of more persons than one by any description sufficient for their identification.

(*5*) Subject to the provisions of this Act, the jurisdiction of the Financial Commissioner extends to the whole of the territories for the time being administered by the Lieutenant-Governor of the Punjab, and of Commissioners and of Collectors and Assistant Collectors to the divisions and districts, respectively, in which they are for the time being employed.

1914. **7.** (*1*) There shall be one or more Financial Commissioners who shall be appointed and may be removed, Financial Commissioner.

Vide Punjab Government notification No. 731, dated 1st November 1887, all Assistant Commissioners and Extra Assistant Commissioners who have not been invested with the powers of the Assistant Collector of the first grade have been appointed Assistant Collectors of the second grade, and *vide* Punjab Government notification No. 730, of the same date, all Tahsildars and Naib-Tahsildars have been appointed Assistant Collectors of the second grade.

See also Punjab Government notification No. 684, dated the 18th September 1893, appointing all Assistant Commissioners and Extra Assistant Commissioners who have been invested with the powers of a Magistrate of the first or second class under the Criminal Procedure Code and also with powers of a Munsif of the first or second class under the Punjab Courts Act as Assistant Collectors of the first grade.

removed, by the Local Government.

(*2*) Where more Financial Commissioners than one have been appointed, the Local Government may make rules as to the distribution among them of business under this or any other Act, and by those rules require any case or class or classes of cases to be considered and disposed of by the Financial Commissioners collectively.

(*3*) When there is a difference of opinion among the Financial Commissioners as to any decree or order to be made in a case which they are required by rules under the last foregoing sub-section to consider, and dispose of collectively, the following rules shall apply, namely :—

(*a*) where the case is an appeal or a case on review or revision, it shall be decided in accordance with the opinion of the majority of the Financial Commissioners or, if there is no such majority which concurs in a decision modifying or reversing the decree or order under appeal, review or revision, that decree or order shall be affirmed ; and

(*b*) where the case is not an appeal or a case on review or revision, the matter respecting which there is the difference of opinion shall be referred to the Local Government for decision, and the decision of that Government with respect thereto shall be final.

(*4*) The expression "Financial Commissioner" in this or any other Act shall, when there are more Financial Commissioners than one, be construed as meaning one or more of the Financial Commissioners as the rules for the time being in force under sub-section (*2*) may require.

(*5*) The

(*5*) The Second Financial Commissioner appointed under section 52 of the Punjab Courts Act, 1884, shall be deemed to have had jurisdiction on and after the first day of November 1884, to make any decree or order or dispose of any other business which might have been made or disposed of by the other Financial Commissioner.

Appointment of Commissioners, and of Deputy, Assistant and Extra Assistant Commissioners.

8. Commissioners, Deputy Commissioners, Assistant Commissioners and Extra Assistant Commissioners shall be appointed and may be removed by the Local Government.

Appointment of Tahsildars and Naib-Tahsildars.

9. The Local Government shall fix the number of Tahsildars and Naib-Tahsildars to be appointed, and the Financial Commissioners may make rules for their appointment and removal.

Powers of Revenue-officers.

10. Except where the class of the Revenue-officer by whom any function is to be discharged is specified in this Act, the Local Government may, by notification, determine the functions to be discharged under this Act by any class of Revenue-officers.

Administrative Control.

Superintendence and control of Revenue-officers.

11. (*1*) The Financial Commissioner shall be subject to the control of the Local Government.

(*2*) The general superintendence and control over all other Revenue-officers shall be vested in, and all such officers shall be subordinate to, the Financial Commissioner.

(*3*) Subject to the general superintendence and control of the Financial Commissioner, a Commissioner shall control all other Revenue-officers in his division.

(*4*) Subject as aforesaid and the control of the Commissioner,

Commissioner, a Collector shall control all other Revenue-officers in his district.

Power to distribute business and withdraw and transfer cases.

12. (*1*) The Financial Commissioner or a Commissioner or Collector may by written order distribute, in a such manner as he thinks fit, any business cognizable by any Revenue-officer under his control.

(*2*) The Financial Commissioner or a Commissioner or Collector may withdraw any case pending before any Revenue-officer under his control, and either dispose of it himself, or by written order refer it for disposal to any other Revenue-officer under his control.

(*3*) An order under sub-section (*1*) or sub-section (*2*) shall not empower any officer to exercise any powers or deal with any business which he would not be competent to exercise or deal with within the local limits of his own jurisdiction.

Appeal, Review and Revision.

Appeals.

13. Save as otherwise provided by this Act, an appeal shall lie from an original or appellate order of a Revenue-officer as follows, namely :—

(*a*) to the Collector when the order is made by an Assistant Collector of either grade ;

(*b*) to the Commissioner when the order is made by a Collector ;

(*c*) to the Financial Commissioner when the order is made by a Commissioner :

Provided that—

(*i*) when an original order is confirmed on first appeal, a further appeal shall not lie ;

(*ii*) when any such order is modified or reversed on appeal by the Collector, the order made by the Commissioner on

further

further appeal, if any, to him shall be final.

Limitation for Appeals.

14. Save as otherwise provided by this Act, the period of limitation for an appeal under the last foregoing section shall run from the date of the order appealed against, and shall be as follows, that is to say—

(*a*) when the appeal lies to the Collector—thirty days ;

(*b*) when the appeal lies to the Commissioner—sixty days ;

(*c*) when the appeal lies to the Financial Commissioner—ninety days.

Review by Revenue-officers.

15. (*1*) A Revenue-officer may, either of his own motion or on the application of any party interested, review, and on so reviewing modify, reverse or confirm, any order passed by himself or by any of his predecessors in office :

Provided as follows :—

(*a*) when a Commissioner or Collector thinks it necessary to review any order which he has not himself passed, and when a Revenue-officer of a class below that of Collector proposes to review any order, whether passed by himself or by any of his predecessors in office, he shall first obtain the sanction of the Revenue-officer to whose control he is immediately subject :

(*b*) an application for review of an order shall not be entertained unless it is made within ninety days from the passing of the order, or unless the applicant satisfies the Revenue-officer that he had sufficient cause for not making the application within that period ;

(*c*) an

(*c*) an order shall not be modified or reversed unless reasonable notice has been given to the parties affected thereby to appear and be heard in support of the order ;

(*d*) an order against which an appeal has been preferred shall not be reviewed.

(*2*) For the purposes of this section, the Collector shall be deemed to be the successor in office of any Revenue-officer of a lower class who has left the district or has ceased to exercise powers as a Revenue-officer, and to whom there is no successor in office.

(*3*) An appeal shall not lie from an order refusing to review or confirming on review a previous order.

Power to call for, examine and revise proceedings of Revenue-officers.

16. (*1*) The Financial Commissioner may at any time call for the record of any case pending before, or disposed of by, any Revenue-officer subordinate to him.

(*2*) A Commissioner or Collector may call for the record of any case pending before, or disposed of by, any Revenue-officer under his control.

(*3*) If in any case in which a Commissioner or Collector has called for a record he is of opinion that the proceedings taken or order made should be modified or reversed, he shall report the case with his opinion thereon for the orders of the Financial Commissioner.

(*4*) The Financial Commissioner may in any case called for by himself under sub-section (*1*) or reported to him under sub-section (*3*) pass such order as he thinks fit :

Provided that he shall not under this section pass an order reversing or modifying any proceeding or order of a subordinate Revenue-officer and affecting any question of right between private

persons

persons without giving those persons an opportunity of being heard.

Procedure.

Power to make rules as to procedure.

17. (*1*) The Local Government may make rules consistent with this Act for regulating the procedure of Revenue-officers under this Act in cases in which a procedure is not prescribed by this Act.

(*2*) The rules may provide, among other matters for the mode of enforcing orders of ejectment from, and delivery of possession of, immovable property, and rules providing for those matters may confer on a Revenue-officer all or any of the powers in regard to contempts, resistance and the like which a Civil Court may exercise in the execution of a decree whereby it has adjudged ejectment from, or delivery or possession of, such property.

(*3*) Subject to the rules under this section, a Revenue-officer may refer any case which he is empowered to dispose of under this Act to another Revenue-officer for investigation and report, and may decide the case upon the report.

Persons by whom appearances and applications may be made before and to Revenue-officer.

18. (*1*) Appearances before a Revenue-officer, and applications to and acts to be done before him, under this Act may be made or done—

(*a*) by the parties themselves, or

(*b*) by their recognized agents or a legal practitioner:

Provided that the employment of a recognized agent or legal practitioner shall not excuse the personal attendance of a party to any proceeding in any case in which personal attendance is specially required by an order of the officer.

(*2*) For the purposes of sub-section (*1*), recognised agents shall be such persons as the Local Government may by notification declare in this behalf.

(*3*) The

(*3*) The fees of a legal practitioner shall not be allowed as costs in any proceeding before a Revenue-officer under this Act unless that officer considers, for reasons to be recorded by him in writing, that the fees should be allowed.

Power of Revenue-officer to summon persons.

19. (*1*) A Revenue-officer may summon any person whose attendance he considers necessary for the purpose of any business before him as a Revenue-officer.

(*2*) A person so summoned shall be bound to appear at the time and place mentioned in the summons in person or, if the summons so allows, by his recognized agent or a legal practitioner.

(*3*) The person attending in obedience to the summons shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and others things relating to any such matter as the Revenue-officer may require.

Mode of service of summons.

20. (*1*) A summons issued by a Revenue-officer shall, if practicable, be served (*a*) personally on the person to whom it is addressed or failing him (*b*) his recognized agent or (*c*) an adult male member of his family usually residing with him.

(*2*) If service cannot be so made, or if acceptance of service so made is refused, the summons may be served by posting a copy thereof at the usual or last known place of residence of the person to whom it is addressed, or, if that person does not reside in the district in which the Revenue-officer is employed and the case to which the summons relates has reference to land in that district, then by posting a copy of the summons on some conspicuous place in or near the estate wherein the land is situate.

(*3*) If the summons relates to a case in which persons having the same interest are so numerous that personal service on all of them is not reasonably practicable,

practicable, it may, if the Revenue-officer so directs, be served by delivery of a copy thereof to such of those persons as the Revenue-officer nominates in this behalf and by proclamation of the contents thereof for the information of the other persons interested.

(*4*) A summons may, if the Revenue-officer so directs, be served on the person named therein, either in addition to, or in substitution for any other mode of service, by forwarding the summons by post in a letter addressed to the person and registered under part III of the India Post Office Act, 1866.*

[1 of 1866.]

(*5*) When a summons is so forwarded in a letter and it is proved that the letter was properly addressed and duly posted and registered, the Revenue-officer may presume that the summons was served at the time when the letter would be delivered in the ordinary course of post.

Mode of service of notice, order or proclamation, or copy thereof.

21. A notice, order or proclamation or copy of such document, issued by a Revenue-officer for service on any person shall be served in the manner provided in the last foregoing section for the service of a summons.

Mode of making proclamation.

22. When a proclamation relating to any land is issued by a Revenue-officer. it shall, in addition to any other mode of publication which may be prescribed in any provision of this Act, be made by beat of drum or other customary method, and by the pasting of a copy thereof on a conspicuous place in or near the land to which it relates.

Supplemental Provisions.

Place of sitting.

23. (*1*) An Assistant Collector may exercise his powers under this Act at any place within the limits of the district in which he is employed.

(*2*) Any

*See now Act VI of 1898.

(2) Any other Revenue-officer may only exercise his powers under this Act within the local limits of his jurisdiction.

Holidays.

24. (1) The Financial Commissioner, with the approval of the Local Government, shall publish in the local official Gazette before the commencement of each calendar year a list of days to be observed in that year as holidays by all or any Revenue-officers.

(2) A proceeding had before a Revenue-officer on a day specified in the list as a day to be observed by him as a holiday shall not be invalid by reason only of its having been had on that day.

Discharge of duties of Collector dying or being disabled.

25. When a collector dies or is disabled from performing his duties, the officer who succeeds temporarily to the chief executive administration of the district under any orders which may be generally or specially issued by the Local Government in this behalf shall be deemed to be a Collector under this Act.

Retention of powers by Revenue-officers on transfer.

26. When a Revenue-officer of any class who has been invested under the foregoing provisions of this Act with any powers to be exercised in any local area is transferred from that local area to another as a Revenue-officer of the same or a higher class, he shall continue to exercise those powers in that other local area unless the Local Government otherwise directs or has otherwise directed.

Conferment of powers of Revenue-officer.

27. (1) The Local Government may by notification confer on any person—

(a) all or any of the powers of a Financial Commissioner, Commissioner or Collector under this Act, or

(b) all or any of the powers with which an Assistant Collector may be invested thereunder, and may by notification withdraw any powers so conferred.

(2) A

(*2*) A person on whom powers are conferred under sub-section (*1*) shall exercise those powers within such local limits and in such classes of cases as the Local Government may direct, and, except as otherwise directed by the Local Government, shall for all purposes connected with the exercise thereof be deemed to be a Financial Commissioner, Commissioner, Collector, or Assistant Collector as the case may be.

(*3*) If any of the powers of a Collector under this Act are conferred on an Assistant Collector, they shall unless the Local Government by special order otherwise directs be exercised by him subject to the control of the Collector.

CHAPTER III.

KANUNGOS, ZAILDARS, INÁMDARS, AND VILLAGE-OFFICERS.

Rules respecting kanungos, zaildars, inamdars and village-officers.

28. (*1*) The Financial Commissioner may make rules to regulate the appointment, duties, emoluments, punishment, suspension and removal of kanungos, zaildars, inamdars and village-officers.

(*2*) When the Government undertakes to pay the zaildars and inamdars in any district, tahsil or other local area from the land-revenue realized in that local area, a rule under sub-section (*1*) may direct that from every person to whom the land-revenue of any land in that local area has been released or assigned, or who has redeemed or compounded for the same, there shall be levied as a contribution towards the payment of such zaildars and inamdars a rate not exceeding one-and-a-half per cent. on the land-revenue which has been, or, but for such release, assignment, redemption or composition, would have been, assessed on such land; and in any case in which land revenue is collected on account of such land by any Revenue-officer for any such person, such officer

may

may deduct that percentage from the amount payable by him to that person.

Village-officers' cess.

29. (*1*) The Local Government may by notification, impose on all or any estates in the territories for the time being administered by it a cess, to be called the village-officers' cess, at such rate or rates not exceeding (half an anna)* for every rupee of the annual value as it may think fit, for remunerating (headmen and chief headmen) † in those territories and for defraying other expenditure directly connected with the supervision of those officers or with the performance of their duties. XVII of 1896.

(*2*) 'Annual value' in sub-section (*1*) has the meaning assigned to that expression in the Punjab District Boards Act, 1883 ; that is to say,— XX of 1

(*a*) double the land-revenue for the time being assessed on any land, whether the assessment is leviable or not ; or

(*b*) where the land-revenue has been permanently assessed or has been wholly or in part compounded for or redeemed, double the amount which, but for such permanent assessment, composition or redemption, would have been leviable ; or

(*c*) where no land-revenue has been assessed, double the amount which would have been assessed, if the average village-rate had been applied ;

Provided that, in any tract in which under the settlement for the time being in force, the improvement of the land due to canal irrigation has been excluded from account in assessing the land-revenue,

* These words were substituted for the words "one anna" by the Repealing and Amending (Rates and Cesses) Act, 1907 (IV of 1907).

† These words were substituted for the words "village-officers" by the Repealing and Amending (Rates and Cesses) Act, 1907 (IV of 1907).

and

and a rate has been imposed in respect of such improvement, that rate shall be added to the land-revenue for the purpose of computing the annual value.

(*3*) The Financial Commissioner may make rules for the collection, control and expenditure of the village-officers' cess.

(*4*) All cesses now levied in any local area for the purposes mentioned in sub-section (1) shall be deemed to have been lawfully imposed and shall, until the village-officers' cess imposed in that local area under that sub section, be deemed to be lawfully leviable and, for the purposes of this section, to be that cess.

Restriction on attachment or assignment of remuneration of kanungos, zaildars, inamdars and village officers.

30. (*1*) The emoluments of a kanungo, zaildar, inamdar or village-officer shall not be liable to attachment in execution of a decree or order of any Civil or Revenue Court.

(*2*) An assignment of, or charge on or an agreement to assign or charge, any such emoluments shall be void unless it is authorized by rules made by the Financial Commissioner in this behalf.

CHAPTER IV.

RECORDS.

Records-of-rights and Annual Records.

Record of rights and documents included therein.

31. (*1*) Save as otherwise provided by this Chapter, there shall be a record-of-rights for each estate.

(2) The record-of-rights for an estate shall include the following documents, namely :—

(*a*) statements showing, so far as may be practicable,—

(*i*) the persons who are land-owners, tenants or assignees of land-revenue in the estate, or who are entitled to receive

any

any of the rents, profits or produce of the estate or to occupy land therein ;

(*ii*) the nature and extent of the interests of those persons, and the conditions and liabilities attaching thereto ; and

(*iii*) the rent, land-revenue, rates, cesses or other payments due from and to each of those persons and to the Government ;

(*b*) a statement of customs respecting rights and liabilities in the estate ;

(*c*) a map of the estate ; and

(*d*) such other documents as the Financial Commissioner may, with the previous sanction of the Local Government, prescribe.

Making or special revision of record-of-rights.

32. (*1*) When it appears to the Local Government that a record-of rights for an estate does not exist, or that the existing record-of-rights for an estate requires special revision, the Local Government may by notification direct that a record-of-rights be made or that the record-of-rights be specially revised, as the case may be.

(*2*) The notification may direct that records-of rights shall be made or specially revised for all or any estates in any local area.

(*3*) A record-of-rights made or specially revised for an estate under this section shall be deemed to be the record-of-rights for the estate, but shall not affect any presumption in favour of the Government which has already arisen from any previous record-of-rights.

Annual record.

33. (*1*) The Collector shall cause to be prepared by the patwari of each estate yearly, or at such other intervals as the Financial Commissioner may prescribe, an edition of the record-of-rights amended

amended in accordance with the provisions of this Chapter.

(*2*) This edition of the record-of-rights shall be called the annual record for the estate, and shall comprise the statements mentioned in sub-section (2) clause (*a*) of section 31 and such other documents, if any, as the Financial Commissioner may, with the previous sanction of the Local Government, prescribe.

(*3*) For the purposes of the preparation of the annual record, the Collector shall cause to be kept up by the patwari of each estate a register of mutations and such other registers as the Financial Commissioner may prescribe.

Procedure for making Records.

Making of that part of the annual record which relates to land-owners, assignees of revenue and occupancy-tenants.

34. (*1*) Any person acquiring, by inheritance, purchase, mortgage, gift or otherwise, any right in an estate as a land-owner, assignee of land-revenue or tenant having a right of occupancy, shall report his acquisition of the right to the patwari of the estate.

(*2*) If the person acquiring the right is a minor or otherwise disqualified, his guardian or other person having charge of his property shall make the report to the patwari.

(*3*) The patwari shall enter in his register of mutations every report made to him under sub-section (*1*) or sub-section (*2*), and shall also make an entry therein respecting the acquisition of any such right as aforesaid which he has reason to believe to have taken place, and of which a report should have been made to him under one or other of those sub-sections and has not been so made.

(*4*) A Revenue-officer shall from time to time enquire into the correctness of all entries in the register of mutations and into all such acquisitions as aforesaid coming to his knowledge of which under the

the foregoing sub-sections, report should have been made to the patwari and entry made in that register, and shall in each case make such order as he thinks fit with respect to the entry in the annual record of the right acquired.

(*5*) Such an entry shall be made by the insertion in that record of a description of the right acquired and by the omission from that record of any entry in any record previously prepared which by reason of the acquisition has ceased to be correct.

Making of that part of the annual record which relates to other persons.

35. The acquisition of any interest in land other than a right referred to in sub-section (*1*) of the last foregoing section shall,—

(*a*) if it is undisputed, be recorded by the patwari in such manner as the Financial Commissioner may by rule in this behalf prescribe ; and

(*b*) if it is disputed, be entered by the patwari in the register of mutations and dealt with in the manner prescribed in sub-sections (4) and (5) of the last foregoing section.

Determination of disputes.

36. (*1*) If during the making, revision or preparation of any record or in the course of any enquiry under this Chapter a dispute arises as to any matter of which an entry is to be made in a record or in a register of mutations, a Revenue-officer may of his own motion, or on the application of any party interested, but subject to the provisions of the next following section, and after such inquiry as he thinks fit, determine the entry to be made as to that matter.

(*2*) If in any such dispute the Revenue-officer is unable to satisfy himself as to which of the parties thereto is in possession of any property to which the dispute relates, he shall ascertain by summary inquiry who is the person best entitled

to

to the property, and shall by order direct that that person be put in possession thereof, and that an entry in accordance with that order be made in the record or register.

(*3*) A direction of a Revenue-officer under sub-section (*2*) shall be subject to any decree or order which may be subsequently passed by any Court of competent jurisdiction.

Restrictions on variations of entries in records.

37. Entries in records-of-rights or in annual records, except entries made in annual records by patwaris under clause (*a*) of section 35 with respect to undisputed acquisitions of interest referred to in that section, shall not be varied in subsequent records otherwise than by—

(*a*) making entries in accordance with facts proved or admitted to have occurred ;

(*b*) making such entries as are agreed to by all the parties interest therein or are supported by a decree or order binding on those parties ;

(*c*) making new maps where it is necessary to make them.

Mutation-fees.

38. (*1*) The Local Government may fix a scale of fees for all or any classes of entries in any record or register under this Chapter and for copies of any such entries.

(*2*) A fee in respect of an entry shall be payable by the person in whose favour the entry is made.

Penalty for neglect to report acquisition of any right referred to in section 34.

39. Any person neglecting to make the report required by section 34 within three months from the date of his acquisition of a right referred to in that section shall be liable, at the discretion of the Collector, to a fine not exceeding five times the amount of the fee which would have been payable according to the scale fixed under the last foregoing

going section if the acquisition of the right had been reported immediately after its accrual.

Obligation to furnish information necessary for the preparation of records.

40. Any person whose rights, interests or liabilities are required to be entered in any record under this Chapter shall be bound to furnish, on the requisition of any Revenue-officer or village-officer engaged in compiling the record, all information necessary for the correct compilation thereof.

Rights of the Government and presumptions with respect thereto and to other matters.

Rights of the Government in mines and minerals.

41. All mines of metal and coal, and all earth-oil and gold washings shall be deemed to be the property of the Government, and the Government shall have all powers necessary for the proper enjoyment of its right thereto.

Presumption as to ownership of forests, quarries and waste-lands.

42. (*1*) When in any record-of-rights completed before the eighteenth day of November, 1871, it is not expressly provided that any forest, quarry, unclaimed, unoccupied, deserted or waste-land, spontaneous produce or other accessory interest in land belongs to the land-owners, it shall be presumed to belong to the Government.

(*2*) When in any record-of-rights completed after that date it is not expressly provided that any forest or quarry or any such land or interest belongs to the Government, it shall be presumed to belong to the land-owners.

(*3*) The presumption created by sub-section (*1*) may be rebutted by showing—

(*a*) from the records or report made by the assessing officer at the time of assessment, or

(*b*) if the record or report is silent, then from a comparison between the assessment of villages in which there existed, and

the

the assessment of villages of similar character in which there did not exist, any forest or quarry, or any such land or interest,

that the forest, quarry, land or interest was taken into account in the assessment of the land-revenue.

(*4*) Until the presumption is so rebutted, the forest, quarry, land or interest shall be held to belong to the Government.

Compensation for infringement of rights of third parties in exercise of a right of the Government.

43. (*1*) Whenever, in the exercise of any right of the Government referred to in either of the two last foregoing sections, the rights of any person are infringed by the occupation or disturbance of the surface of any land, the Government shall pay, or cause to be paid to that person compensation for the infringement.

of 1870.

(*2*) The compensation shall be determined as nearly as may be in accordance with the provisions of the Land Acquisition Act, 1870.*

Presumption in favour of entries in records-of-rights and annual records.

44. An entry made in a record-of-rights in accordance with the law for the time being in force, or in an annual record in accordance with the provisions of this Chapter and the rules thereunder, shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor.

Suit for declaratory decree by persons aggrieved by an entry in a record.

45. If any person considers himself aggrieved as to any right of which he is in possession by an entry in a record-of-rights or in an annual record, he may institute a suit for a declaration of his right under Chapter VI of the Specific Relief Act, 1877.

of 1877.

Supplemental Provisions.

Powers to make rules respecting records and other matters connected therewith.

46. The Financial Commissioner may make rules—

(*a*) prescribing the language in which records and

* See now the Land Acquisition Act, 1894 (I of 1894).

and registers under this Chapter are to be made ;

(*b*) prescribing the form of those records and registers, and the manner in which they are to be prepared, signed and attested ;

(*c*) for the survey of land so far as may be necessary for the preparation and correction of those records and registers ;

(*d*) for the conduct of inquiries by Revenue-officers under this Chapter ; and

(*e*) generally for the guidance of Revenue-officers and village-officers in matters pertaining to records and registers mentioned or referred to in this Chapter.

Records-of-rights and annual records for groups of estates.

47. (*1*) The Financial Commissioner may direct that a record-of-rights be made for any group of neighbouring estates instead of separately for each of the estates.

(*2*) The provisions of this Chapter with respect to a record-of-rights and annual record for an estate shall then, so far as they can be made applicable, apply to a record-of-rights and annual record for a group of estates.

CHAPTER V.

ASSESSMENT.

Assessment of land revenue.

48. (*1*) All land, to whatever purpose applied and wherever situate, is liable to the payment of land-revenue to the Government except such land as has been wholly exempted from that liability by special contract with the Government or by the provisions of any law for the time being in force *and such land as is included in the village site.*

Punjab III of 1

(*2*) Land-revenue shall be assessed in cash.

Punjab III of 1

(*3*) Land may be assessed to land-revenue notwithstanding that that revenue, by reason of its having been assigned, released, compounded for or redeemed, is not payable to the Government.

(*4*) Land

Punjab Act, I of 1928.

(*4*) Land Revenue may be assessed—

(*a*) as a fixed annual charge payable in a lump sum or by instalments ;

(*b*) in the form of prescribed rates per acre or other unit of area applicable to the area recorded as sown, matured or cultivated during any harvest or during any year.

Punjab Act, I of 1928.

48-A. The assessment of land revenue shall be based on an estimate of the average money value of the nett assets of the estate or group of estates in which the land concerned is situated. Basis of assessment.

48-B. If the land-revenue is assessed as a fixed annual charge the amount thereof, and if it is assessed in the form of prescribed rate, the average amount which, according to an estimate in writing approved by the Local Government, will be leviable annually, shall not, in the case of any assessment circle, exceed one-fourth of the estimated money value of the nett assets of such assessment circle : Limit of assessment.

Provided that nothing contained in this section shall affect any assessment in force at the time of the commencement of the Punjab Land Revenue (Amendment) Act, 1928.

General Assessments.

Punjab Act, II of 1928.

49. (*1*) *Assessments of land-revenue may be general or special.* Notification of intended re-assessment and instructions as to principles of assessment.

(*2*) A general re-assessment of the land-revenue of *any area* shall not be undertaken without the previous sanction of the Local Government and notification of that sanction.

Punjab Act, II of 1928.

(*3*) *In granting such sanction the Local Government may give such instructions consistent with the provisions of this Act and the rules made thereunder as it may deem fit.*

Punjab Act, II of 1928.

50. (*1*) A *general* assessment shall be made by a Revenue-officer. Mode of determining assessment.

(*2*) Before

(*2*) Before making such assessment the Revenue officer shall report through the Financial Commissioner for the sanction of the Local Government his proposal with regard thereto. Punjab III of 1921

Announcement of assessment.

51. (*1*) After consideration of the proposal submitted by the Revenue-officer under the provisions of section 50 the Local Government shall pass such orders as it may deem fit, subject to the provisions of sub-sections (*3*) and (*4*), and on the receipt of such orders the Revenue-officer shall make an order determining the assessment proper for each estate concerned and shall announce it in such manner as the Local Government may by rule prescribe. Punjab III of 1921

(*2*) At the time of announcing the assessment *the Revenue officer* shall also declare the date from which it is to take effect, and, subject to the other provisions of this Act, it shall take effect accordingly. Punjab III of 1921

(*3*) Subject to the provisions of sub-section (*4*) the average rate of incidence on the cultivated area of the land revenue imposed under the provisions of sub-section (*1*) on any assessment circle forming part of any area in respect of which a notification has been issued under sub-section (*1*) of section 49 shall not exceed the rate of incidence of the land-revenue imposed at the last previous assessment by more than one-fourth : provided that the rate of incidence of the assessment imposed on any estate shall not exceed the rate of incidence of the last previous assesssment on that estate by more than two-thirds. Punjab III of 1921

(*4*) The provisions of sub-section (*3*) shall not be applicable in the case of land which has not been previously assessed to land-revenue or of which the last previous assessment was made under the provision of clause (*b*) of sub-section (*1*) of section 59, or in the case of land in which canal irrigation has been introduced, after the date of the orders passed under the provisions of sub-section (*1*) of section 51, at the last previous assessment or in the case of an area which Punjab III of 1921

which has been declared by notification to be an urban assessment circle and for the purpose of calculating the increase in the incidence of the land-revenue for the purpose of sub-section (*3*), all such land shall be excluded from calculation :

Provided that no area shall be declared to be an urban assessment circle unless it is included within the limits of a municipality or of an area in respect of which a notification has been issued under section 241 of the Punjab Municipal Act, 1911, or of an area declared to be a small town under the provisions of the Punjab Small Towns Act, 1921.

Application for reconsideration of assessment.

52. (*1*) The land-owner may, within thirty days from the date of the announcement of the assessment, present a petition to the Revenue-officer for a reconsideration of the amount, form or conditions of the assessment.

(*2*) Where the land-revenue is assigned, the assignee thereof may within thirty days from that date, present a like petition to the Revenue-officer.

(*3*) The order passed by the Revenue-officer on the petition shall set forth his reasons for granting or refusing it.

Confirmation and duration of assessment.

b Act, 1928. **53.** (*1*) *An assessment, the undertaking of which has been sanctioned under the provisions of section* 49 shall not be considered final until it has been confirmed by the Local Government.

b Act, 1928. (*2*) At any time before an assessment is so confirmed the Commissioner or Financial Commissioner may *subject to the provisions of sub-section* (*3*) modify the assessment of any estate.

b Act, 1928. (*3*) Before an enhancement is ordered under the provisions of sub-section (*2*) the Commissioner or the Financial Commissioner as the case may be, shall cause reasonable notice to be given to the land-owners by proclamation published in the manner described in section 22, to show cause in a petition

petition addressed to the Revenue-officer why the proposed enhancement should not be ordered, and the Revenue-officer shall enquire into any objections raised by any land-owner and submit such petition received with his report thereon to the Commissioner or the Financial Commissioner, who shall consider the petition and the report and shall also hear the petitioner if he so desires.

Duration of assessment

Punjab Act, III of 1928.

53-A. (*1*) The Local Government shall, when confirming an assessment under sub-section (*1*) of section 53, fix a period of time for which the assessment shall remain in force.

(*2*) The period fixed under sub-section (*1*) shall be forty years : Provided that—

(*i*) a period not exceeding forty years and not shorter than ten years may be fixed for any area, specified by the Local Government, in which canal irrigation has been introduced after the date of the orders passed under the provisions of sub-section (*1*) of section 51 at the last previous assessment or in which it has been proposed to introduce such irrigation during the period fixed ;

(*ii*) a period not exceeding forty years and not shorter than twenty years may be fixed on the expiry of a period fixed under the provisions of clause (*i*) of this proviso ;

(*iii*) nothing in this sub-section shall affect any assessment in force at the time of the commencement of the Punjab Land Revenue (Amendment) Act, 1928, or apply to an area which has been declared to be an urban assessment circle under the provisions of sub-section (*4*) of section 51.

54. Notwithstanding

Assessment to remain in force till new assessment takes effect.

Punjab Act, III of 1928.

54. Notwithstanding the expiration of the period fixed for the continuance of an assessment under the last foregoing section, the assessment shall remain in force till a new assessment takes effect.

Refusal to be liable for assessment and consequences thereof.

55. (*1*) At any time within ninety days from the date of the annoucement of an assessment the land-owner or, where there are more land-owners than one, any of them who would be individually or collectively liable for more than half the sum assessed, may give notice to the Revenue-officer of refusal to be liable for the assessment.

(*2*) When the Revenue-officer receives a notice under sub-section (1), the Collector may take possession of the estate and deal with it, as nearly as may be, as if the annulment of the assessment thereof had been ordered as a process for the recovery of an arrear of land-revenue due thereon.

(*3*) While the estate is in the possession of the Collector, the land-owner or land-owners shall be entitled to receive from the Government an allowance, to be fixed by the Financial Commissioner, which shall not be less than five or more than ten per cent. of the net income realized by the Government from the estate.

Distribution of the assessment of an estate over the holdings comprised therein.

56. (*1*) If the assessment announced under section 51 is in whole or in part a fixed assessment of an estate for a term of years, the Revenue-officer shall, before the date on which the first instalment thereof becomes payable, make an order distributing it over the several holdings comprised in the estate and make and publish a record of the distribution.

(*2*) The Collector may for sufficient reason make an order revising that record at any time while the assessment continues to be in force, and publish the record so revised.

(*3*) If the assessment announced under section 51 is in the form of rates chargeable according to the results

results of each year or harvest, a Revenue-officer shall, from year to year or from harvest to harvest, as the conditions of the assessment may require, make and publish, not later than one month before the first instalment of the land-revenue falls due, a record of the amount payable in respect of each holding.

Application for amendment of the distribution of an assessment.

57. (*1*) Any person affected by a record made under sub-section (*1*) or sub-section (*3*) of the last foregoing section, or by the revision of a record under sub-section (*2*) of that section, may, within thirty days from the date of the publication of the record, present a petition to the Revenue-officer for a re-consideration of the record so far as it affects him.

(*2*) The order passed by the Revenue-officer on the petition shall set forth his reasons for granting or refusing it.

Appeal from order under sections 52 ad 5 7.

58. An appeal from an order under the last foregoing section or section 52 shall lie to the Commissioner, and from the appellate order of the Commissioner to the Financial Commissioner.

Special Assessments.

Special assessments.

59. (*1*) Special assessments may be made by Revenue-officers in the following cases, namely :—

(*a*) when land-revenue which has been released or assigned is resumed ;

(*b*) when *lands* are sold, leased or granted by the Government ; Punjab Act III of 1928

(*c*) when the assessment of any land has been annulled or the land-owner has refused to be liable therefor, and the term for which the land was to be managed by the Collector or his agent or let in farm has expired ;

(*d*) when assessments of land-revenue require revision in consequence of the action of water

water or sand or of calamity of season or from any other cause ;

(*e*) when revenue due to the Government on account of pasture or other natural products of land, or on account of mills, fisheries or natural products of water, or on account of other rights described in section 41 or section 42, has not been included in an assessment made under the foregoing provisions of this Chapter.

(*2*) The Financial Commissioner may confirm any assessment made under this section.

Punjab Act, III of 1928.

(*3*) The foregoing provisionsof this Chapter with respect to general assessments shall, subject to such modifications thereof as the Financial Commissioner may prescribe *executive instructions issued under the provisions of section* 60-*C*, regulate the procedure of Revenue-officers making special assessments.

Punjab Act, III of 1928.

60. The Local Government shall, subject to the provisions of section 60-A from time to time, make rules prescribing—

wer to e rules

Punjab Act, III of 1928.

(*a*) the method by which the estimate of the money value of the nett assets of an estate or group of estate shall be made ;

(*b*) the method by which assessment to land revenue shall be made ;

(*c*) the principles on which exemption from assessmentshall be allowed for improvements ;

(*d*) the manner in which assessment shall be announced ;

(*e*) the manner in which the rate of incidence of the land-revenue is to be calculated for the purpose of sub-section (*3*) of section 51.

60-A. Before

Procedure to be followed in making Rules.

60-A. Before making any rules under the provisions of section 60, the Local Government shall, in addition to observing the procedure laid down in section 21 of the Punjab General Clauses Act, 1898, published by notification a draft of the proposed rules for the information of persons likely to be affected thereby at least thirty days before a meeting of the Punjab Legislative Council. The Local Government shall defer consideration of such rules until after the meeting of the Punjab Legislative Council next following the publication of the draft, in order to give any member of the council an opportunity to introduce a motion for discussing the draft. Punjab Act, VII of 1929.

Rules and executive instructions issued before commencement of Punjab Land Revenue (Amendment) Act, III of 1928, to be followed for the purpose of assessment operations begun before issue of rules made under the provisions of section 60-A.

60-B. Notwithstanding anything contained in section 60-A, for the purpose of all assessment operations begun before the date of publication of rules made after the commencement of the Punjab Land Revenue (Amendment) Act, 1928, the rules and executive instructions relating to the matters mentioned in clauses (*a*), (*b*), (*c*) and (*d*) of section 60 which were in force before such publication shall remain in force. Punjab Act III of 1928.

Powers to issue instructions.

60-C. The Local Government or the Financial Commissioner with the approval of the Local Government may, for the guidance of Revenue-officers, from time to time, issue executive instructions relating to all matters to which the provisions of this chapter apply, provided that such instructions shall be consistent with the provisions of this Act and the rules made thereunder. Punjab Act III of 1928.

61. (*1*) In

CHAPTER VI.

COLLECTION OF LAND-REVENUE.

Security for payment of land-revenue.

61. (*1*) In the case of every estate, the entire estate and the land-owner or, if there are more than one, the land-owners jointly and severally, shall be liable for the land-revenue for the time being assessed on the estate :

Provided that—

XXXVIII of 1920.

(*a*) the Local Government may by notification declare that in any estate a holding or its owner shall not be liable for any part of the land-revenue for the time being assessed on the estate except that part which is payable in respect of the holding ; and

(*b*) when there are superior and inferior land-owners in the same estate, the Financial Commissioner may by rule, or by special order in each case, determine whether the superior or inferior land-owners shall be liable for the land-revenue, or whether both shall be so liable, and, if so, in what proportions.

(*2*) A notification under proviso (*a*) to sub-section (*1*) may have reference to any single estate or to any class of estate or estates generally in any local area.

Further security for payment of land-revenue.

62. (*1*) The land-revenue for the time being assessed on an estate or payable in respect of a holding shall be the first charge upon the rents, profits and produce thereof.

(*2*) Without the previous consent of the Collector, the rents, profits or produce of an estate or holding shall not be liable to be taken in execution of a decree or order of any Court until the

land-revenue

land-revenue chargeable against the rents, profits or produce, and any arrear of land-revenue due in respect of the estate or holding, have been paid.

Orders to regulate payment of land-revenue.

63. (*1*) Notwithstanding anything in any record-of-rights, the Financial Commissioner may fix the number and amount of the instalments, and the times, places and manner, by, at and in which land-revenue is to be paid.

(*2*) Until the Financial Commissioner otherwise directs, land-revenue shall be payable by the instalments, at the times and place and in the manner, by, at and in which it is payable at the commencement of this Act.

Rules to regulate collection, remission and suspension of land-revenue.

64. (*1*) The Financial Commissioner may make rules consistent with this Act to regulate the collection, remission and suspension of land-revenue, and may by those rules determine the circumstances and terms in and on which assigned land-revenue may be collected by the assignee.

(*2*) Where land-revenue due to an assignee is collected by a Revenue-officer, there shall be deducted from the sum collected such a percentage on account of the cost of collection as the Financial Commissioner may by rule in this behalf prescribe.

(*3*) A suit for an arrear of assigned land-revenue shall not be entertained unless there is annexed to the plaint at the time of the presentation thereof a document under the hand of the Collector specially authorizing the institution of the suit.

Costs recoverable as part of arrear.

65. The costs of any process issued under this Chapter shall be recoverable as part of the arrear of land-revenue in respect of which the process was issued.

66. A

Certified account to be evidence as to arrear.

66. A statement of account certified by a Revenue officer shall be conclusive proof of the existence of an arrear of land-revenue, of its amount and of the person who is the dafaulter.

Processes for recovery of arrears.

67. Subject to the other provisions of this Act, an arrear of land-revenue may be recovered by any one or more of the following processes, namely :—

(*a*) by service of a writ of demand on the defaulter ;

(*b*) by arrest and detention of his person ;

(*c*) by distress and sale of his moveable property and uncut or ungathered crops ;

(*d*) by transfer of the holding in respect of which the arrear is due ;

(*e*) by attachment of the estate or holding in respect of which the arrear is due ;

(*f*) by annulment of the assessment of that estate or holding ;

(*g*) by sale of that estate or holding ;

(*h*) by proceedings against other immoveable property of the defaulter.

Writ of demand.

68. A writ of demand may be issued by a Revenue-officer on or after the day following that on which an arrear of land-revenue accrues.

Arrest and detention of defaulter.

69. (*1*) At any time after an arrear of land-revenue has accrued a Revenue-officer may issue a warrant directing an officer named therein to arrest the defaulter and bring him before the Revenue-officer.

(*2*) When the defaulter is brought before the Revenue-officer, the Revenue-officer may cause him to be taken before the Collector, or may keep him under personal restraint for a period not exceeding ten days and then, if the arrear is still unpaid, cause him to be taken before the Collector.

(*3*) When

(3) When the defaulter is brought before the Collector, the Collector may issue an order to the officer incharge of the civil jail of the district, directing him to confine the defaulter in the jail for such period, not exceeding one month from the date of the order, as the Collector thinks fit.

(4) The process of arrest and detention shall not be executed against a defaulter who is a female, a minor, a lunatic or an idiot.

Distress and sale of moveable property and crops.

70. (1) At any time after an arrear of land-revenue has accrued, the moveable property and uncut or ungathered crops of the defaulter may be distrained and sold by order of a Revenue-officer.

(2) The distress and sale shall be conducted, as nearly as may be, in accordance with the law for the time being in force for the attachment and sale of moveable property under the decree of a Revenue Court constituted under the Punjab Tenancy Act, 1887 : XVI of 188

Provided that, in addition to the particulars exempted by that law from liability to sale, so much of the produce of the land of the defaulter as the Collector thinks necessary for seed-grain and for the subsistence, until the harvest next following, of the defaulter and his family, and of any cattle exempted by that law, shall be exempted from sale under this section.

Transfer of holding.

71. (1) At any time after an arrear of land-revenue has accrued on a holding, the Collector may transfer the holding to any person being a land-owner of the estate in which this holding is situate and not being a defaulter in respect of his own holding, on condition of his paying the arrear before being put in possession of the holding, and on such further conditions as the Collector may see fit to prescribe.

(2) The transfer may, as the Collector thinks fit, be either till the end of the agricultural year in

which

which the defaulter pays to the transferee the amount of the arrear which the transferee paid before being put in possession of the holding, or for a term not exceeding fifteen years from the commencement of the agricultural year next following the date of the transfer.

(*3*) The Collecter shall report on to the Financial Commissioner any transfer made by him under this section, and the Financial Commissioner may set aside the transfer or alter the conditions thereof, or pass such other order as he thinks fit.

(*4*) A transfer under this section shall not affect the joint and several liability of the land-owners of the estate in which it is enforced.

(*5*) In respect of all rights and liabilities arising under this Act, the person to whom the holding is transferred shall, subject to the conditions of the transfer, stand in the same position as that in which the defaulter would have stood if the holding had not been transferred.

(*6*) When the transfer was for a term, the holding shall on the expiration of the term, be restored by the Collector to the defaulter free of any claim on the part of the Government or the transferee for any arrear of land-revenue or rates and cesses due in respect thereof.

Attachment of estate or holding.

72. (*1*) At any time after an arrear of land-revenue has accrued the Collector may cause the estate or holding in respect of which the arrear is due to be attached and taken under his own management or that of an agent appointed by him for that purpose.

(*2*) The Collector or the agent shall be bound by all the engagements which existed between the defaulter and his tenants, if any, and shall be entitled to manage the land and to receive all rents and profits accruing therefrom to the exclusion of the

defualter

defaulter until the arrear has been satisfied or, until the Collector restores the land to the defaulter.

(*3*) All surplus profits of the land attached beyond the cost of attachment and management and the amount necessary to meet the current demand for land-revenue and rates and cesses shall be applied in discharge of the arrear.

(*4*) Land shall not be attached for the same arrear for a longer term than five years from the commencement of the agricultural year next following the date of the attachment, but, if the arrear is sooner discharged, the land shall be released and the surplus receipts, if any, made over to the land-owner.

Annulment of assessment of estate or holding.

73. (*1*) When an arrear of land-revenue has been due for a longer period than one month, and the foregoing processes are not deemed sufficient for the recovery thereof, the Financial Commissioner may, in addition to or instead of all or any of those processes, order the existing assessment of the estate or holding in respect of which the arrear is due to be annulled.

(*2*) The provisions of this section shall not be put in force for the recovery of an arrear of land-revenue which has accrued on land—

(*a*) while under attachment under the last foregoing section, or

(*b*) while under the charge of the Court of Wards.

(*3*) When the assessment of any land has been annulled, the Collector may, with the previous sanction of the Financial Commissioner, either manage the land himself or through an agent, or let it in farm to any person willing to accept the farm, for such term and on such conditions as may be sanctioned by the Financial Commissioner :

Provided

Provided that the term for which land may be so managed or farmed shall not be longer than fifteen years from the commencement of the agricultural year next following the date of the annulment.

(*4*) At some time before the expiration of that term the Collector shall determine the assessment to be paid in respect of the estate or holding for the remainder of the term of the current assessment of the district or tahsil, and, when that assessment has been sanctioned by the Financial Commissioner, shall announce it to the land-owner.

(*5*) The land owner may give notice to the Collector of refusal to be liable for the assessment within thirty days from the date on which the assessment was announced to him.

(*6*) If notice is so given, the Collector may, with the previous sanction of the Financial Commissioner, take the estate or holding under direct management or farm it for the remainder of the term of the current assessment of the district or tahsil, or for any period within that term which the Financial Commissioner may fix.

(*7*) When the assessment of a holding is annulled, the joint responsibility of the other land-owners of the estate for the land-revenue of that holding becoming due after the annulment shall be in abeyance until a new assessment takes effect.

(*8*) The Financial Commissioner may direct that any contract made by the defaulter, or by any person through whom the defaulter claims, with respect to any land comprised in an estate or holding of which the assessment has been annulled, shall not be binding on the Collector or his agent or farmer during the period for which the estate or holding remains under the management of the Collector or his agent or is let in farm.

74. (*1*) When

Proclamation of attachment or annulment of assessment and consequence of the proclamation.

74. (*1*) When any land is attached under section 72, or when the assessment of any land has been annulled under the last foregoing section, the Collector shall make proclamation thereof.

(*2*) No payment made by any person to the defaulter before the making of the proclamation on account of rent or any other asset in anticipation of the usual time for the payment shall, without the special sanction of the Collector, be credited to that person or relieve him from liability to make the payment to the Collector or his agent or farmer.

(*3*) No payment made after the making of the proclamation on account of rent or any other asset of the estate or holding to any person other than the Collector or his agent or farmer shall be credited to the person making the payment or relieve him from liability to make the payment to the Collector or his agent or farmer.

Sale of estate or holding.

75. When an arrear of land-revenue has accrued and the foregoing processes are not deemed sufficient for the recovery thereof, the Collector, with the previous sanction of the Financial Commissioner, may, in addition to, or instead of, all or any of those processes, and subject to the provisions hereinafter contained, sell the estate or holding in respect of which the arrear is due:

Provided that land shall not be sold for the recovery of—

(*a*) any arrear which has accrued while the land was under the charge of the Court of Wards, or was so circumstanced that the Court of Wards might have exercised jurisdiction over it under the provisions of section 35 of the Punjab Laws Act, 1872, clause (*a*), (*b*), (*c*), or (*d*); or IV of 1872

(*b*) any arrear which has accrued while the land was under attachment under section 72 of this Act; or

(*c*) any

(*c*) any arrear which has accrued while the land was held under direct management by the Collector or in farm by any other person, under section 73, after either an annulment of assessment or a refusal to be liable therefor.

Effect of sale on incumbrances.

76. (*1*) Land sold under the last foregoing section shall be sold free of all incumbrances; and all grants and contracts previously made by any person other than the purchaser in respect of the land shall become void as against the purchaser at the sale.

(*2*) Nothing in sub-section (*1*) shall affect—

(*a*) a tenant's right of occupancy, unless the right was created by the defaulter himself, or

(*b*) any lease at a fair rent, temporary or perpetual, for the erection of a dwelling-house or manufactory, or for a mine, garden, tank, canal, place of worship, or burial-ground, so long as the land continues to be used for the purpose specified in the lease, or

(*c*) any incumbrance, grant, contract or right of occupancy specially saved by order of the Financial Commissioner and proclaimed as hereinafter provided.

Proceedings against other immoveable property of defaulter.

77. (*1*) If the arear cannot be recovered by any of the processes hereinbefore provided, or if the Financial Commissioner considers the enforcement of any of those processes to be inexpedient, the Collector may, where the defaulter owns any other estate or holding, or any other immoveable property, proceed under the provisions of this Act against that property as if it were the land in respect of which the arrear is due:

Provided that no interests save those of the defaulter alone shall be so proceeded against, and no incumbrances

incumbrances created, grants made or contracts entered into by him in good faith shall be rendered invalid by reason only of his interests being proceeded against.

(*2*) When the Collector determines to proceed under this section against immoveable property other than the land in respect of which the arrear is due, he shall issue a proclamation prohibiting the transfer or charging of the property.

(*3*) The Collector may at any time by order in writing withdraw the proclamation, and it shall be deemed to be withdrawn when either the arrear has been paid or the interests of the defaulter in the property have been sold for the recovery of the arrear.

(*4*) Any private alienation of the property, or of any interest of the defaulter therein, whether by sale, gift, mortgage or otherwise, made after the issue of the proclamation and before the withdrawal thereof shall be void.

(*5*) In proceeding against property under this section the Collector shall follow, as nearly as the nature of the property will admit, the procedure prescribed for the enforcement of process against land on which an arrear of land-revenue is due.

Remedies open to person denying his liability for an arrear.

78. (*1*) Notwithstanding anything in section 66, when proceedings are taken under this Act for the recovery of an arrear the person against whom the proceedings are taken may, if he denies his liability for the arrear or any part thereof and pays the same under protest made in writing at the time of payment and signed by him or his agent, institute a suit in a Civil Court for the recovery of the amount so paid.

(*2*) A suit under sub-section (*1*) must be instituted in a Court having jurisdiction in the place where

where the office of the Collector of the district in which the arrear or some part thereof accrued is situate.

Procedure in Sales.

Proclamation of sale.

79. (*1*) On the receipt of the sanction of the Financial Commissioner to the sale of any immoveable property, the Collector shall issue a proclamation of the intended sale, specifying—

(*a*) the date, time and place of the sale ;

(*b*) the property to be sold, and, if it is an estate or holding, the land-revenue assessed thereon or payable in respect thereof ;

(*c*) if the property is to be sold for the recovery of an arrear due in respect thereof, the incumbrances, grants, contracts, and rights of occupancy, if any, specially saved by order of the Financial Commissioner under section 76, sub-section (*2*), clause (*c*) ;

(*d*) if the property is to be sold otherwise than for the recovery of an arrear due in respect thereof any incumbrance, grant or contract to which the property is known to be liable ; and

(*e*) the amount for the recovery of which the sale is ordered.

(*2*) *Repealed by Punjab Act, II of 1905.*

(*3*) The place of sale specified under clause (*a*), sub-section (*1*), must be either the office of the Collector or some place appointed by the Collector in this behalf and situate in or near the property to be sold.

80. A

Indemnity to Revenue-officer with respect to contents of proclamation.

80. A Revenue-officer shall not be answerable for any error, mis-statement or omission in any proclamation under the last foregoing section, unless the same has been committed or made dishonestly.

Publication of proclamation.

81. (*1*) A copy of the proclamation shall be served on the defaulter and be pasted in a conspicuous part of the office of the Tahsildar of the tahsil in which the property to be sold is situate.

(*2*) After a copy of the proclamation has been served on the defaulter and posted in the office of the Tahsildar, a copy thereof shall be posted in the office of the Collector.

(*3*) The proclamation shall be further published in manner prescribed in section 22 and in such other manner as the Collector thinks expedient.

Time and conduct of sale.

82. (*1*) The sale shall not take place on a Sunday or other holiday, or till after the expiration of at least thirty days from the date on which the copy of the proclamation was pasted in the office of the Collector.

(*2*) The sale shall be by public auction and shall be conducted either by the Collector in person or by a Revenue-officer specially appointed by him in this behalf.

Power to postpone sale.

83. The Collector may from time to time postpone the sale.

Stay of sale.

84. If at any time before the bidding at the auction is completed the defaulter pays the arrear in respect of which the property has been proclaimed for sale, together with the costs incurred for the recovery thereof, to the officer conducting the sale, or proves to the satisfaction of that officer that he has already paid the same either at the place and in the manner prescribed under section 63 or into the Government treasury, the sale shall be stayed.

85. When

Payment of deposit by highest bidder.

85. When the highest bid at the auction has been ascertained, the person who made that bid shall, on the requisition or the officer conducting the sale, pay to that officer a deposit of twenty-five per centum on the amount of his bid, and shall, on payment thereof, be declared to be the purchaser subject to the provisions of this Chapter with respect to the exercise of any right of pre-emption.

Consequences of failure to pay deposit.

86. If the person who made the highest bid fails to pay the deposit as required by the last foregoing section, the property shall forthwith be put up again and sold, and all expenses attending the first sale, and the deficiency of price, if any, which may happen on the re-sale, may be recovered from him by the Collector as if the same were an arrear of land-revenue.

87. *Repealed,*—vide *schedule annexed to Punjab Pre-emption Act, II of 1905.*

Time for payment in full.

88. The full amount of the purchase-money shall be paid by the purchaser before the close of the fifteenth day from that on which the purchaser was declared.

Procedure in default of payment.

89. In default of payment of the full amount of the purchase-money within the period mentioned in the last foregoing section, the deposit referred to in section 85 or section 87, as the case may be, shall, after defraying the expenses of the sale, be forfeited to the Government and may, if the Collector, with the previous sanction of the Commissioner, so directs, be applied in reduction of the arrear, and the property shall be re-sold, and the defaulting purchaser shall have no claim to the property or to any part of the sum for which it may subsequently be sold.

Report of sale to Commissioner.

90. Every sale of immoveable property under this Chapter shall be reported by the Collector to the Commissioner.

91. (*1*) At

Application to set aside sale.

91. (*1*) At any time within thirty days from the date of the sale, application may be made to the Commissioner to set aside the sale on the ground of some material irregularity or mistake in publishing or conducting it;

(*2*) But a sale shall not be set aside on that ground unless the applicant proves to the satisfaction of the Commissioner that he has sustained substantial injury by reason of the irregularity or mistake.

Order confirming or setting aside sale.

92. (*1*) After the expiration of thirty days from the date of the sale, if such application as is mentioned in the last foregoing section has not been made, or if such application has been made and rejected, the Commissioner shall make an order confirming the sale, and, if such application has been made and allowed, the Commissioner shall make an order setting aside the sale.

(*2*) An order made under this section shall be final.

Refund of purchase-money on setting aside of sale.

93. Whenever the sale of any property is set aside, the purchaser shall be entitled to receive back his purchase-money.

Proclamation after postponement or on re-sale.

94. A sale made after a postponement under section 83, and a re-sale consequent on a purchaser's default under section 89 or on the setting aside of a sale under section 92, shall be made after the issue of a fresh proclamation in the manner hereinbefore prescribed for the sale.

On confirmation of sale possession and certificate to be granted to purchaser.

95. (*1*) After a sale has been confirmed in manner aforesaid the Collector shall put the person declared to be the purchaser into possession of the property sold, and shall grant him a certificate to the effect that he has purchased that property.

(*2*) The certificate shall state whether or not the property was sold for the recovery of an arrear due in respect thereof, and, if it was so sold, shall

set

set forth the incumbrances, grants, contracts and rights of occupancy, if any, specified in the proclamation of the sale as specially saved by order of the Financial Commissioner under section 76, sub-section (*2*), clause (*c*).

(*3*) The certificate shall be deemed to be a valid transfer of the property but need not be registered as a conveyance.

(*4*) Any suit brought in any Court against the certified purchaser on the ground that the purchase was made on behalf of a person other than the certified purchaser shall be dismissed with costs.

(*5*) The certified purchaser of any immoveable property shall be entitled to all rents and profits falling due in respect of the property after the date of the confirmation of the sale and be liable for all instalments of land-revenue and rates and cesses falling due in respect thereof after that date.

Proceeds of sale.

96. (*1*) When a sale of immoveable property under this Chapter has been confirmed, the proceeds of the sale shall be applied in the first place to the payment of any arrears, including costs incurred for the recovery thereof, due to the Government from the defaulter at the date of the confirmation of the sale, whether the arrears are of land-revenue, or of sums recoverable as arrears of land-revenue, and the surplus, if any, shall be paid to the person whose property has been sold, or, if the property sold was owned by more than one person, then to the owners either collectively or according to the amount of their recorded interests, as the Collector thinks fit.

(*2*) The surplus shall not, except under an order of a Court, be paid to any creditor of a person whose property has been sold.

(*3*) If the proceeds of the sale fall short of such arrears as are referred to in sub-section (*1*), the

the balance remaining due from the defaulter may be recovered from him by further proceedings under this Chapter or by any other means authorized by law.

CHAPTER VII.

RECOVERY OF OTHER DEMANDS BY REVENUE-OFFICERS.

Recovery of certain arrears through Revenue-officer instead of by suit.

97. When a village-officer required by rules under section 28 to collect any land-revenue or sum recoverable as an arrear of land-revenue satisfies a Revenue-officer that the revenue or sum has fallen due and has not been paid to him, the Revenue-officer may, subject to any rules which the Financial Commissioner may make in this behalf, recover it as if it were an arear of land-revenue.

Other sums recoverable as arrears of land-revenue.

98. In addition to any sums recoverable as arrears of land-revenue under this Act or any other enactment for the time being in force, the following sums may be so recovered; namely:—

(*a*) fees, fines, costs and other charges, including the village-officers' cess payable under this Act;

(*b*) revenue due to the Government on account of pasture or other natural products of land, or on account of mills, fisheries or natural products of water, or on account of other rights described in section 41 or section 42 in cases in which the revenue so due has not been included in the assessment of an estate;

(*c*) fees payable to district boards or local boards under section 33 of the Punjab District Boards Act, 1883, for the use of or benefits derived from such works as are referred to in section 20, clauses (*i*) and (*j*), of that Act; XX of

(*d*) sums

(*d*) sums leviable by or under the authority of the Government as water-rates, or on account of the maintenance or management of canals, embankments or other irrigation works, not being sums recoverable as arears of land-revenue under any enactment for the time being in force; and

(*e*) sums payable to the Government by a person who is surety for the payment of any of the foregoing sums or of any other sum recoverable as an arrear of land-revenue.

Application of Chapter VI to sums recoverable under this Chapter.

99. (*1*) The provisions of Chapter VI shall, with respect to any sum mentioned or referred to in this Chapter, apply, so far as they can be made applicable, as if the sum were an arrear of land-revenue and the person from whom, either as principal or as surety, it is due were a defaulter in respect of such an arrear.

(*2*) Unless any such sum is declared by any enactment for the time being in force to be recoverable as if it were an arrear of land-revenue due in respect of the land charged therewith, the provisions of section 77 shall apply under sub-section (*1*) to the recovery thereof.

CHAPTER VIII.

SURVEYS AND BOUNDARIES.

Powers of Financial Commissioner to make rules for demarcation of boundaries and erection of survey-marks.

100. (*1*) The Financial Commissioner may make rules as to the manner in which the boundaries of all or any estates in any local area are to be demarcated and as to the survey-marks to be erected within those estates.

(*2*) Rules under this section may prescribe, among other matters, the form of survey-marks and the material to be used in their construction.

101. (*1*) A

Power of Revenue-officers to define boundaries.

101. (*1*) A Revenue-officer may, for the purpose of framing any record or making any assessment under this Act or on the application of any person interested, define the limits of any estate, or of any holding, field or other portion of an estate, and may, for the purpose of indicating those limits, require survey-marks to be erected or repaired.

(*2*) In defining the limits of any land under sub-section (*1*) the Revenue-officer may cause survey-marks to be erected on any boundary already determined by, or by order of, any Court, Revenue-officer or Forest-settlement-officer, or restore any survey-mark already set up by, or by order of, any Court or any such officer.

Power to fix boundary between riverain estates.

***101-A.** (*1*) When any two or more estates are subject to river action and the limits of any such estates are by any law, custom, decree or order applicable thereto, liable to vary according as variations may from time to time occur in the course or action of such river, the Local Government may, in its discretion, order a permanent boundary line to be fixed between any such estates or such portion thereof as are liable to river action.

(*2*) Upon an order being made under sub-section (*1*), the Collector shall fix a boundary line between such estates or portions of such estates accordingly, and shall demarcate the same, in accordance with the rules (if any) made under section 100 and the provisions of section 101.

(*3*) Every such boundary line shall be fixed with due regard to the history of the estates and the interests of the persons respectively owning them or possessing rights therein, in such manner as may be just and equitable in the circumstances of each case.

* Sections 101 A to 101-F were added by the Punjab Riverain Boundaries Act, 1899 (I of 1899).

(*4*) No

(*4*) No such boundary line shall be deemed to have been permanently fixed until it has been approved by the Financial Commissioner.

Effect of fixing a boundary between riverain estates Proviso.

101-B. (*1*) Every boundary line fixed in accordance with the provisions of section 101-A shall, notwithstanding any law or custom, or any decree or order of any court of law, to the contrary, be the fixed and constant boundary between the estates affected thereby, and the proprietary and all other rights in every holding, field or other portion of an estate situate on each side of the boundary line so fixed, shall, subject to the following proviso, vest in the land-owners of the estate which lies on that side of the boundary line on which such holding, field or other portion of an estate is situate :

Provided that, if, by the operation of this section, the proprietary or any other rights in any land which at the time a boundary line is fixed is under cultivation, or reasonably fit for cultivation, or yields any produce of substantial value would be transferred from the land-owners and other right-holders of any one estate to the land-owners of any other estate, the Collector shall, by written order, direct that the rights in such land shall, subject to the provisions of section 101-C and section 101-D, not be so transferred unless and until the land, in respect of which any such order is made, ceases to be reasonably fit for cultivation, or to yield any produce of substantial value, and upon any such order being made, the transfer of the rights in such land shall be suspended accordingly :

Provided further that when any portion of the land specified in any such order ceases to be reasonably fit for cultivation or to yield any produce of substantial value, the order shall, when the

collector,

Collector, in writing, so directs, cease to operate as to that portion.

(*2*) The decision of the Collector as to whether for the purposes of the proviso to sub-section (*1*) of this section, any land is or is not reasonably fit for cultivation or does or does not yield any produce of substantial value shall be final.

Application for immediate transfer of rights reserved under the proviso to sub-section (*1*) of section 101-B upon payment of compensation, and procedure thereupon. Award of compensation and extinguishment of rights thereby.

101-C. (*1*) When any order has been made under the proviso to sub-section (*1*) of section 101-B, the land-owners (or any of them) in whom, but for such order, the rights in the land specified therein, would vest, may apply in writing, to the Collector to forthwith transfer the rights, the transfer of which has been suspended by such order, upon payment of compensation for the same.

(*2*) When an application under sub-section (*1*) is made, the Collector shall—

(*a*) fix a day for the hearing of the application ;

(*b*) cause notice of the applictaion, and of the day fixed for the hearing thereof, to be served on, or proclaimed for the information of, all persons recorded as having rights in the land specified in the order made under the proviso to sub-section (*1*) of section 101-B, and all other persons interested or claiming to be interested therein ;

(*c*) upon the day so fixed for hearing, or any day to which the hearing may be adjourned, inquired into the rights in the land and award compensation in respect of all rights found established therein, to the persons severally entitled thereto.

(*d*) Inform

(*d*) Inform the applicant of the aggregate amount of compensation so awarded and require him to deposit the amount with the Collector on or before a day to be fixed by him in that behalf :

Provided that, notwithstanding anything in this sub-section contained, it shall be lawful for the Collector, in his discretion and at any time before an award of compensation thereon has been made, to reject any application made under sub-section (*1*).

(*3*) In awarding compensation under sub-section (*2*), the Collector shall be guided by the provisions of section 23 and section 24 of the Land Acquisi-
of 1894. tion Act, 1894, so far as the same may be applicable to the circumstances of the case.

(*4*) Upon the fifteenth day of May next after the whole amount of compensation so awarded has been deposited with the Collector, the order made under the proviso to sub-section (*1*) of section 101-B, shall cease to operate, and the rights specified therein shall be transferred and vest in the manner prescribed in sub-section (*1*) of section 101 B, notwithstanding anything in the proviso thereof contained, and the Collector shall proceed to tender the compensation to the persons severally entitled to receive the same under his award. If any such person shall refuse to accept the sum so awarded and tendered to him, it shall be placed to his credit in the public treasury.

(*5*) When any order made under the proviso to sub-section (*1*), of section 101-B, shall, under the provisions of section (*4*) of this section, cease to operate and determine, all rights reserved to any person by such order shall be extinguished.

101-D. When

Order under the proviso to sub-section (*1*) of section 101-B to cease to apply to rights voluntarily transferred to a land-owner of the estate to which the land is transferred by fixing boundary.

101-D. When any person possessing any rights in any land, in regard to the rights in which an order has been made under the proviso to sub-section (*1*) of section 101-B, voluntarily transfers such rights to any land-owners of the estate, in the land-owners of which, but for such order, such rights would vest under the operation of sub-section (*1*) of section 101-B, the rights so transferred shall forthwith cease to be subject to such order.

Rights transferred to be liable to all the incidents of tenures of the estate to which the transfer is made.

101-E. In every case in which, by the operation of section 101-B or section 101-C or section 101-D, proprietary or other rights in land are transferred from the land-owners and other right-holders of any one estate to the land-owners of any other estate, such rights shall be subject to all the incidents of tenure and liabilities which, under any law or custom for the ti me being in force, apply to the rights of the land-owners of the estate to which such rights are so transferred.

Meaning of the expression "Collector" in sections 101-A, 101-B and 102-C.

101-F. For the purposes of sections 101-A, 101-B and 101-C, respectively, the expression "Collector" shall be deemed to include any Revenue-officer appointed by the Local Government to perform all or any of the functions of a Collector under any of the provisions thereof.

Cost of erection and repair of survey-marks.

102. Subject to any rules which the Financial Commissioner may make in this behalf, survey-marks shall be erected and kept in repair by or at the cost of the persons interested in the land for the indication of the limits of which they are required :

Provided that the Local Government may in any case direct that the cost of erection shall be borne by the Government or be paid out of the proceeds of the village-officers' cess.

103. (*1*) If

Recovery of cost incurred by the Government.

103. (*1*) If the persons interested in the land fail to erect or repair a survey-mark within thirty days from the date of their being required by a Revenue-officer to do so, the Revenue-officer may cause it to be erected or repaired.

(*2*) Where the Revenue-officer causes a survey-mark to be erected or repaired, he shall, subject to any rules or direction under the last foregoing section, apportion the cost among the persons interested in the land in such manner as he deems just and certify the same to the Collector.

(*3*) The Collector may recover the cost as if it were an arrear of land-revenue.

Power of Revenue-officers to enter on land for purposes of survey and demarcation.

104. Any Revenue-officer, and any person acting under the orders of a Revenue-officer, may, in the discharge of any duty under this Act, enter upon and survey land and erect survey-marks thereon and demarcate the boundaries thereof, and do all other acts necessary for the proper performance of that duty.

Surveys for purpose of preparation of records.

105. (*1*) When any land is being surveyed in pursuance of rules under section 46, clause (*c*), any Revenue-officer directing the survey may, by notice or proclamation, require all persons having rights or interests in the land to indicate, within a specified time, by temporary marks of a kind to be described in the notice or proclamation, the limits of those rights or interests.

(*2*) If a person to whom the notice or proclamation is addressed fails to comply with the requisition, he shall be liable at a discretion of the Revenue officer to fine which may extend to ten rupees.

Provision of flagholders and chainmen for those surveys.

106. (*1*) For the purposes of the survey of any and in pursuance of rules under section 46, clause (*c*), the land-owners shall be bound to provide fit persons to act as flagholders and chainmen.

(*2*) If

(*2*) If the land-owners fail to provide such persons or to provide them in sufficient number, such other persons as a Revenue-officer considers necessary may be employed and the cost of employing them recovered from the land-owners as if it were an arrear of land-revenue.

Professional surveys.

107. (*1*) If it is necessary to make a survey by other agency than that of Revenue-officers or village officers, the Local Government may publish a notification stating—

(*a*) the local area to be surveyed and the nature of the survey ;

(*b*) the names or official designation of the officers by whom the survey is to be made ; and

(*c*) the kind of survey-marks to be erected by those officers.

(*2*) From the date of the notification the officers specified therein, and the persons acting under their orders, shall have for the purposes of the survey the powers conferred on Revenue-officers by section 104.

Penalty for destruction, injury or removal of survey marks.

108. (*1*) If any person wilfully destroys or injures or without lawful authority removes a survey mark lawfully erected, he may be ordered by a Revenue-officer to pay such fine not exceeding fifty rupees for each mark so destroyed, injured or removed as may, in the opinion of the Revenue-officer, be necessary to defray the expense of restoring the same and of rewarding the person, if any, who gave information of the destruction, injury or removal.

(*2*) The imposition of a fine under this section shall not bar a prosecution under section 434 of the Indian Penal Code XLV of 1860

Report of destruction or removal of or injury to survey-marks.

109. Every village-officer of an estate shall be legally bound to furnish a Revenue-officer with information respecting the destruction or removal of, or any injury done to, any survey-mark lawfully erected in the estate.

110. (*1*) A

CHAPTER IX.

PARTITION.

Effect of partitions of estates and tenancies on joint liability for revenue, and rent.

110. (*1*) A partition of land, either under this Chapter or otherwise, shall not, without the express consent of the Financial Commissioner, affect the joint liability of the land or of the land-owners thereof for the revenue payable in respect of the land, or operate to create a new estate, and, if any conditions are attached to that consent, those conditions shall be binding on the parties to the partition.

(*2*) A partition of a tenancy shall not, without the express consent of the landlord, affect the joint liability of the co-sharers therein for the payment of the rent thereof.

Application for partition.

111. Any joint owner of land, or any joint tenant of a tenancy in which a right of occupancy subsists, may apply to a Revenue-officer for partition of his share in the land or tenancy, as the case may be, if—

(*a*) at the date of the application the share is recorded under Chapter IV as belonging to him, or

(*b*) his right to the share has been established by a decree which is still subsisting at that date, or

(*c*) a written acknowledgment of that right has been executed by all persons interested in the admission or denial thereof.

Restriction and limitations on partition.

112. Notwithstanding anything in the last foregoing section—

(1) places of worship and burial-grounds held in common before partition shall continue to be so held after partition,

unless

unless the parties otherwise agree among themselves and record their agreement and file it with the Revenue-Officer ;

(2) partition of any of the following properties, namely :—

(*a*) any embankment, water-course, well or tank, and any land on which the supply of water to any such work may depend,

(*b*) any grazing-ground, and

(*c*) any land which is occupied as the site of a town or village and is assessed to land-revenue ;

may be refused if, in the opinion of the Revenue-officer, the partition of such property is likely to cause inconvenience to the co-sharers, or other persons directly or indirectly interested therein, or to diminish the utility thereof to those persons ;

(3) the fact that a partition on the application of a joint owner of land would render necessary the severance into two or more parts of the land comprised in the tenancy of a tenant having a right of occupancy may, unless the tenant assents to the severance, be a sufficient reason for the disallowance of the partition in so far as it would affect that tenancy ; and

(4) the fact that the landlord objects to the partition of a tenancy may be sufficient reason for the absolute disallowance of the partition thereof.

113. The

Notice of application for partition.

113. The Revenue-officer, on receving the application, under section 111; shall, if it is in order and not open to objection on the face of it, fix a day for the hearing thereof, and—

(*a*) cause notice of the application and of the day so fixed to be served on such of the recorded co-sharers as have not joined in the application, and, if the share of which partition is applied for is a share in a tenancy, on the landlord also; and

(*b*) if he thinks fit, cause the notice to be served on, or proclaimed for the information of, any other persons whom he may deem to be directly or indirectly interested in the application.

Addition of parties to application.

114. On the day fixed for the hearing, or on any day to which the hearing may be adjourned, the Revenue-officer shall ascertain whether any of the other co-sharers desire the partition of their shares also, and, if any of them so desire, he shall add them as applicants for partition.

Absolute disallowance of partition.

115. After examining such of the co-sharers and other persons as may be present on that day, the Revenue-officer may, if he is of opinion that there is good and sufficient cause why partition should be absolutely disallowed, refuse the application, recording the grounds of his refusal.

Procedure on admission of application.

116. If the Revenue-officer does not refuse the application under the last foregoing section, he shall ascertain the questions, if any, in dispute between any of the persons interested distinguishing between—

(*a*) questions as to title in the property of which partition is sought; and

(*b*) questions as to the property to be divided, or the mode of making the partition.

117. (*1*) When

Disposal of questions as to title in property to be divided.

117. (*1*) When there is a question as to title in any of the property of which partition is sought, the Revenue-officer may decline to grant the application for partition until the question has been determined by a competent Court, or he may himself proceed to determine the question as though he were such a Court.

(2) Where the Revenue-officer himself proceeds to determine the question, the following rules shall apply, namely :—

(*a*) If the question is one over which a Revenue Court has jurisdiction, the Revenue-officer shall proceed as a Revenue Court under the provisions of the Punjab Tenancy Act, 1887. XVI of 1887

(*b*) If the question is one over which a Civil Court has jurisdiction, the procedure of the Revenue-officer shall be that applicable to the trial of an original suit by a Civil Court, and he shall record a judgment and decree containing the particulars required by the Code of Civil Procedure to be specified therein. V of 1908.

(*c*) An appeal shall lie from the decree of the Revenue-officer under clause (*b*) as though that decree were a decree of a *Subordinate* Judge in an original suit.

(*d*) Upon such an appeal being made, the *District* Court or *High* Court, as the case may be, may issue an injunction to the Revenue-officer requiring him to stay proceedings pending the disposal of the appeal.

(*e*) From the appellate decree of a *District* Court upon such an appeal, a further

appeal

appeal shall lie to the *High* Court if such a further appeal is allowed by the law for time being in force.

Disposal of other questions.

118. (*1*) When there is a question as to the property to be divided, or the mode of making a partition, the Revenue-officer shall, after such inquiry as he deems necessary, record an order stating his decision on the question and his reasons for the decision.

of 1914.

(*2*) An appeal may be preferred from an order under sub-section (*1*) within fifteen days from the date thereof, and, when such an appeal is preferred and the institution thereof has been certified to the Revenue-officer by the authority to whom the appeal has been preferred the Revenue-officer shall stay proceedings pending the disposal of the appeal.

(*3*) If an applicant for partition is dissatisfied with an original or appellate order under this section and applies for permission to withdraw from the proceedings in so far as they relate to the partition of his shares, he shall be permitted to withdraw therefrom on such terms as the Revenue-officer thinks fit.

(*4*) When an applicant withdraws under the last foregoing sub-section, the Revenue-officer may, where the other applicants, if any desire the continuance of proceedings, continue them in so far as they relate to the partition of the shares of those other applicants.

Administration of property excluded from partition.

119. When any such property as is referred to in section 112, clause (2), is excluded from partition, the Revenue-officer may determine the extent and manner to and in which the co-sharers and other persons interested therein may make use thereof, and the proportion in which expenditure incurred thereon and profits derived therefrom, respectively, are

to

to be borne by and divided among those persons or any of them.

Distribution of revenue and rent after partition.

120. (*1*) The amount of revenue to be paid in respect of each of the holdings into which land has been divided on a partition, and the amount of rent to be paid in respect of each of the portions into which a tenancy has been so divided, shall be determined by the Revenue-officer making the partition.

(*2*) The determination of the Revenue-officer as to the revenue to be paid in respect of each holding shall, where the estate in which the holding is situate is subject to a fixed assessment, be deemed to be an order under section 56, sub-section (*1*).

(*3*) Where new estates have been created at a partition and the land-revenue has been fraudulently or erroneously distributed among them, the Local Government may within twelve years from the time of discovery of the fraud or error, order a new distribution of the land-revenue among the several estates, on an estimate of the assets of each estate at the time of the partition, to be made conformably to the best evidence and information procurable respecting the same.

Instrument of partition.

121. When a partition is completed, the Revenue-officer shall cause an instrument of partition to be prepared, and the date on which the partition is to take effect to be recorded therein.

Delivery of possession of property allotted on partition.

122. An owner or tenant to whom any land or portion of a tenancy, as the case may be, is allotted in proceedings for partition shall be entitled to possession thereof as against the other parties to the proceedings and their legal representatives, and a Revenue-officer shall, on application made to him for the purpose by any such owner or tenant at any time within three years from the date recorded in the instrument of partition under the last foregoing section

section, give effect to that instrument so far as it concerns the applicant as if it were a decree for immoveable property.

Affirmation of partitions privately affected.

123. (*1*) In any case in which a partition has been made without the intervention of a Revenue-officer, any party thereto may apply to a Revenue-officer for an order affirming the partition.

(*2*) On receiving the application, the Revenue-officer shall inquire into the case, and, if he finds that the partition has in fact been made, he may make an order affirming it and proceed under sections 19, 120, 121 and 122, or any of those sections, as circumstances may require, in the same manner as if the partition had been made on an application to himself under this Chapter.

Power to make rules as to costs of partitions.

124. The Financial Commissioner may make rules for determining the costs of portions under this chapter and the mode in which such costs are to be apportioned.

Re-distribution of land according to custom.

125. When by established custom any land in an estate is subject to periodical re-distribution a Revenue-officer may, on the application of any of the land-owners, enforce the re-distribution according to the custom, and for this purpose may exercise all or any of the powers of a Revenue-officer in proceedings for partition.

Officers who may be empowered to act under this Chapter.

126. The Revenue-officer by whom proceedings may be taken under this Chapter shall be a Revenue-officer of a class not below that of Assistant Collector of the first grade.

CHAPTER X.

ARBITRATION.

Power to refer to arbitration.

127. (*1*) Any Revenue-officer may, with the consent of the parties, refer to arbitration any dispute arising before him in any matter under this Act.

(*2*) A

(*2*) A Collector or any Assistant Collector of the first grade may, without the consent of the parties, refer to arbitration any dispute before him with respect to—

(*a*) any matter of which an entry is to be made in any record or register under Chapter IV ;

(*b*) any matter relating to the distribution of an assessment under section 56 ;

(*c*) the limits of any estate or of any holding, field or other portion of an estate ; or

(*d*) the property to be divided at a partition or the mode of making a partition.

Order of reference and contents thereof.

128. (*1*) In referring a dispute to arbitration a Revenue-officer shall make an order of reference, and specify therein the precise matter submitted to arbitration, the number of arbitrators which each party to the dispute is to nominate, the period within which arbitrators are to be nominated, and the period within which the award is to be delivered.

(*2*) The number of arbitrators which each party may nominate must be the same and must not exceed two.

(*3*) If from any cause arbitrators are not nominated, or an award is not delivered, within the period fixed therefor in the order of reference, the Revenue-officer may from time to time enlarge that period, or may cancel the order of reference.

Nomination of arbitrators.

129. (*1*) When an order of reference has been made, the parties may each nominate the number of arbitrators specified in the order, and the Revenue-officer shall nominate one other arbitrator.

(*2*) The Revenue-officer may, for reasons to be recorded by him, make an order disallowing any nomination made by either party and requiring the party to make another nomination within a time to

be

be specified in the order.

(3) An order under the last foregoing sub-section shall be final.

Substitution of arbitrators by parties.

130. If an arbitrator nominated by a party dies, desires to be discharged or refuses or becomes incapable to act, the party may nominate another person in his stead.

Nomination and substitution of arbitrators by Revenue-officers.

131. In any of the following cases, namely :—

(*a*) if either of the parties fails to nominate an arbitrator under sub-section (*1*) of section 129 within the period fixed in the order of reference, or

(*b*) if the nomination of an arbitrator has been disallowed under sub-section (2) of section 129, and another arbitrator is not nominated within the time specified in the order under that sub-section or, having been so nominated, his nomination is also disallowed, or

(*c*) if a party entitled to nominate an arbitrator in the place of another arbitrator under section 130 fails to nominate him within one week from the date of the communication to him of a notice requiring him to make the nomination, or

(*d*) if an arbitrator nominated by the Revenue-officer dies, desires to be discharged or refuses or becomes incapable to act,

the Revenue-officer may nominate a person as arbitrator.

Process for appearance before arbitrators.

132. (*1*) The Revenue-officer shall, on the application of the arbitrators, issue the same processes to the parties and witnesses whom the arbitrators desire to examine as he may issue in any proceeding under this Act before himself.

(2) Any

(*2*) Any such party or witness shall be bound to appear before the arbitrators in obedience to a process issued under sub-section (*1*) either in person or by agent, as the arbitrators may require.

(*3*) The person attending in obedience to the process shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and other things relating to any such matter as may be specified in the process.

Award of arbitrators and presentatives thereof.

133. (*1*) The arbitrators shall make an award in writing under their hands concerning the matters referred to them for arbitration and state therein their reasons therefor, and any arbitrators dissenting from the award made by a majority of the arbitrators shall state the grounds of his dissent.

(*2*) The arbitrators shall present the award to the Revenue-officer in person unless that officer permits them to present it by agent.

Procedure on presentation of award.

134. (*1*) When the award has been received, the Revenue-officer shall, if the parties are present, consider forthwith any objections which they may have to make thereto, and, if they are not present, fix a date for the consideration thereof.

(*2*) Where a date has been fixed for the consideration of an award, the Revenue-officer shall on that date, or on any subsequent date to which an adjournment may be made, hear any objections which the parties may have to make to the award.

(*3*) The Revenue-officer may also, if he thinks fit, question the arbitrators as to the grounds of their award.

Effect of award.

135. (*1*) The Revenue-officer may accept, modify or reject the award, recording his reasons for doing so in his decision respecting the dispute which was referred to arbitration.

(2) An

(*2*) An appeal shall lie from the decision as if arbitrators had not been appointed.

CHAPTER XI.

SPECIAL JURISDICTION WITH RESPECT TO LAND.

Power to invest officers making records of-rights or general re-assessments with powers of Civil Courts.

136. (*1*) The Local Government may, by order published in the official Gazette, invest any Revenue-officer making or specially revising records-of-rights in any local area in pursuance of a notification under section 32 or making a general re-assessments of land-revenue in any local area in pursuance of a notification under section 49 [or any Revenue-officer in a Colony], or any Revenue-officer to whose control that officer is subject, with all or any of the powers of any Court constituted under Punjab Courts Act, 1884, for the purpose of trying all or any specified classes of suits or appeals relating to land arising in the local area.

Punjab Act, V of 1912.

XVII of 1884.

(*2*) The Local Government may cancel an order under sub-section (*1*) wholly or in part.

(*3*) While an order or any part of an order under that sub-section continues in force, the powers conferred thereby shall be exercised by the officer invested therewith and not otherwise.

(*4*) Any cases pending before that officer under the order or a subsisting part of the order at the time of cancellation thereof may be disposed of by him as if the order or that part of it continued in force, unles the Local Government directs, as it is hereby empowered to do, that those cases shall be transferred for disposal to the Courts by which they would have been disposed of if the order had not been published.

Control over such officers and appeals from and revision of their decrees and orders.

137. (*1*) The Local Government may by notification direct that the provisions of this Act with respect to the superintendence and control over Revenue-officers

Revenue-officers shall, subject to any modification of those provisions which the Local Government thinks fit, apply to any Revenue-officer, except the Financial Commissioner, who has been invested with the powers of Civil Court of any of the classes specified in clauses (*a*), (*b*), (*c*) and (*d*) of section 17 of the Punjab Courts Act, 1884, and that appeal shall lie from his decrees and orders to, and his decrees and orders be subject to revision by a Revenue-officer invested under the last foregoing section with the powers of a Court which would be competent under the Punjab Courts Act, 1884, to hear appeals from, or revise, such decrees and orders if they had been made by a Court with the powers of which the Revenue-officer who made them as has been invested. XVIII of 1884. XVIII of 1884.

(2) In the absence of any such notification, a Revenue-officer invested under the last foregoing section with the powers of any such Civil Court as aforesaid shall, with respect to the exercise of those powers, be deemed to be such a Civil Court for the purposes of the Punjab Courts Act, 1884. XVIII of 1884.

CHAPTER XII.

SUPPLEMENT PROVISIONS.

Revenue deposits.

Power to deposit certain sums other than rent.

138. (*1*) In either of the following cases, namely —

(*a*) when a headman or other land-owner, or an assignee of land-revenue, to whom any sum other than rent is payable on account of a liability under this Act, refuses to receive the sum from, or to grant a receipt therefor to, the person by whom it is payable,

(*b*) when the person by whom any such sum is payable is in doubt as to the headman

or

or other land-owner, or the assignee of land-revenue, entitled to receive it,

that person may apply to a Revenue-officer for leave to deposit the sum in his office, and the Revenue officer shall receive the deposit if, after examining the applicant, he is satisfied that there is sufficient ground for the application, and if the applicant pays the fee, if any, which may be chargeable on any notice to be issued of the receipt thereof.

(2) When a deposit has been so received, the liability of the depositor to the headman or other land-owner, or the assignee of land-revenue, for the amount thereof shall be discharged.

Procedure in case of deposit on account of a payment due to Government.

139. If the deposit purports to be made on account of any payment due to the Government, it may be credited accordingly.

Procedure in case of other deposits.

140. (1) A Revenue-officer receiving a deposit purporting to be made on any other account shall give notice of the receipt thereof to every person who he has reason to believe claims or is entitled to the deposit, and may pay the amount thereof to any person appearing to him to be entitled to the same, or may, if he thinks fit, retain the deposit pending the decision of a Civil Court as to the person so entitled.

(2) No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Revenue-officer under this section, but nothing in this subsection shall prevent any person entitled to receive the amount of any such deposit from recovering it from a person to whom it has been paid by a Revenue-officer.

Execution

Execution of orders of Civil and Criminal Courts by Revenue-officers.

Orders of Civil and Criminal Courts for execution of processes against land or the produce thereof to be addressed to a Revenue-officer.

141. Orders issued by any Civil or Criminal Court for the attachment, sale or delivery of any land or interest in land, or for the attachment or sale of the produce of any land, shall be addressed to the Collector or such Revenue-officer as the Collector may appoint in this behalf, and be executed by the Collector or that officer in accordance with the provisions of the law applicable to the Court issuing the orders and with any rules consistant therewith made by the Financial Commissioner with the concurrence of the High Court and the previous sanction of the Local Government.

Attachment of assigned land-revenue.

142. (*1*) Notwithstanding anything in any other enactment for the time being in force, an order issued by any Court for the attachment of assigned land-revenue shall require the person by whom the revenue is payable to pay it to the Collector, and the Collecter to hold it subject to the further orders of the Court.

(*2*) A payment to the Collector under sub-section (*1*) shall be an effectual discharge to the person making it.

Preservation of attached Produce.

Preservation of attached produce.

143. (*1*) The attachment of the produce of any land in pursuance of an order of any Court or other authority shall not prevent the person to whom the produce belongs from reaping, gathering or storing it or doing any other act necessary for its preservation.

(*2*) The attaching officer shall do or cause to be done all acts necessary for the preservation of the produce if the person to whom it belongs fails to do so.

(*3*) When sale of produce follows on its attachment, the purchaser shall be entitled, by himself or by any person appointed by him

him in this behalf, to enter on the place where the produce is and do all that is necessary for the purpose of preserving and removing it.

Division of produce.

Division of produce.

144. In either of the following cases, namely :—

(*a*) where land-revenue is paid by division or appraisement of the produce,

(*b*) where a superior and an inferior land-owner, or two or more share-holders in a holding or tenancy, are jointly interested in any produce, and either or any of the land-owners or tenants as the case may be, desires the assistance of a Revenue-officer for the purpose of dividing or appraising the produce,

VII of 1887. the provisions of the Punjab Tenancy Act, 1887, with respect to the division or appraisement of produce shall apply so far as they can be made applicable.

Miscellaneous.

Village-cesses.

145. (*1*) At any of the following times, namely :—

(*a*) when a record-of-rights is being made or specially revised for an estate,

(*b*) when the local area in which an estate is situate is being generally re-assessed and before the assessement has been confirmed,

(*c*) at any other time on an order made with respect to any estate by the Local Government,

a Revenue-officer shall prepare a list of village-cesses, if any, levied in the estate which have been generally

generally or specially approved by the Local Government or the title to which has, before the passing of this Act, been judicially established.

(*2*) *Repealed by Act XVII of 1896.*

(*3*) The Local Government may impose on the collection of any village-cess comprised in the list such conditions as to police or other establishments connected with the village, market or fair in or on account of which the cess is levied, as it thinks fit.

(*4*) The *Local Government may* declare whether any cess, contribution or due levied in an estate is or is not a village-cess. XXXVIII 1920.

(*5*) A declaration of the *Local Government* under the last foregoing sub-section shall be conclusive, and shall not be liable to be questioned in any Court. XXXVIII 1920.

Superior land-owners dues.

146. Where a superior land-owner is entitled to receive in respect of any land from an inferior land-owner dues in kind or in cash of fluctuating quantity or amount, the Collector may—

(*a*) on the application of both land-owners, or

(*b*) with the previous sanction of the Local Government, on the application of either of them,

commute those dues into a fixed percentage of the land-revenue payable by the inferior landowner in respect of the land.

Substitution of service or payment of land-revenue.

147. (*1*) The Local Government may with the previous sanction of the Governor-General in Council authorise the remission of land-revenue in whole or in part in consideration of the person liable therefor undertaking to render in lieu thereof such public service as may be specified in an agreement to be approved by the Local Government and executed by that person.

(2) The

(2) The Local Government may, with the like sanction, cancel any remission authorised, and agreement made, under sub-section (1).

(3) If a landlowner bound by an agreement under that sub-section to render public service in lieu of paying land-revenue fails to render the service to the satisfaction of the Collector, the Collector may determine the portion of the land-revenue remitted which is represented by the service in respect of which the landowner is in default, and, with the previous sanction of the Financial Commissioner recover that portion as if it were an arrear of land-revenue due in respect of the land for the land-revenue whereof the service was substituted.

Recovery of cost of assessing assigned land-revenue.

148. (1) When land of which the land-revenue has been assigned in whole or in part is reassessed, the assignee shall be liable to pay such a share of the cost of making the re-assessment as the Financial Commissioner may determine to be just.

(2) That share may be recovered by the Collector by deduction of the amount thereof from the land-revenue due to the assignee.

Penalty for failure to attend limits of estate in obedience to order of Revenue-officers.

149. If a person required by a summons, notice order or proclamation proceeding from a Revenue-officer to attend at a certain time and place within the limits of the estate in which he ordinarily resides, or in which he holds or cultivates land, fails to comply with the requisition, he shall be liable at the discretion of the Revenue-officer to a fine which may extend to fifty rupees.

Prevention of encroachment on common lands.

150. (1) Where land which has been reserved for the common purposes of the co-sharers therein has been encroached on by any co-sharer, a Revenue-officer may, on the application of any other co-sharers eject the encroaching co-sharer from the land and by order

order proclaimed in manner mentioned in section 22, forbid repetition of the encroachment.

(*2*) The proceedings of the Revenue-officer under sub-section (*1*) shall be subject to any decree or order which may be subsequently passed by any Court of competent jurisdiction.

Papers kept by village-officers to be deemed public documents.

151. (*1*) Any record or paper which a village-officer is required by law, or by any rule under this Act, to prepare or keep shall be deemed to be the property of the Government.

(*2*) A village-officer shall, with respect to any such record or paper in his custody, be deemed for the purposes of the Indian Evidence Act, 1872, to be a public officer having the custody of a public document which any person has a right to inspect. I of 1872.

Costs.

152. (*1*) A Revenue-officer may give and apportion the costs of any proceeding under this Act in any manner he thinks fit.

(*2*) But if he orders that the cost of any such proceeding shall not follow the event, he shall record his reasons for the order.

Computation of periods limited for appeals and applications for review.

153. In the computation of the period for an appeal from, or an application for the review of, an order under this Act the limitation therefor shall be governed by the Indian Limitation Act, *1908*. IX of 1908 (Punjab Amdt. III of 1914).

Restriction on Revenue-officer's bidding at auctions or trading.

154. (*1*) A Revenue-officer, or a person employed in a revenue office, shall not—

(*a*) purchase or bid for, either in person or by agent, in his own name or in that of another, or jointly or in shares with others, any property which any Revenue-officer or Revenue-Court in the district in which he is employed has ordered to be sold, or

(*b*) in contravention of any rules made by the Local Government in this behalf, engage in trade in that district.

(*2*) Nothing

(*2*) Nothing in sub-section (*1*) shall be deemed to preclude any person from becoming a member of a company incorporated under the Indian Com-
of 1882. panies Act, 1882, *the Indian Companies Act, 1913,*
Punjab Act I of 1928. or other law.

Power to make rule.

155. (*1*) The Financial Commissioner may, in addition to the other rules which may be made by him under this Act, make rules consistent with this Act and any other enactment for the time being in force—

(*a*) fixing the number and amount of the instalments, and the times and places and the manner, by, at and in which any sum other than rent or land-revenue which is payable under this Act or of which a record has been made thereunder is to be paid ;

(*b*) fixing the dates on which profits are to be divisible by headmen or other persons by whom they are realized on behalf of co-sharers ;

(*c*) prescribing the fees to be charged for the service and execution of processes issued by Revenue-officers and Revenue-Courts, the mode in which those fees are to be collected, the number of persons to be employed in the service and execution of those processes, and the remuneration and duties of those persons ;

(*d*) regulating the procedure in cases where persons are entitled to inspect records of Revenue-officers, or records or papers in the custody of village-officers, or to obtain copies of the same, and prescribing the fees payable for searches and copies ;

(*e*) prescribing

(*e*) prescribing forms for such books, entries, statistics and accounts as the Financial Commissioner thinks necessary to be kept, made or compiled in revenue-offices, or submitted to any authority ;

(*f*) declaring what shall be the language of any of those offices and determining in what cases persons practising in those offices shall be permitted to address the presiding officers thereof in English ; and

(*g*) generally for carrying out the purposes of this Act.

(*2*) Until rules are made under clauses (*a*) and (*b*) of sub-section (*1*) the sums therein referred to shall be payable by the instalments at the times and places, and in the manner by, at and in which they are now payable.

(*3*) Rules made by the Financial Commissioner under this or any other section of this Act shall not take effect until they have been sanctioned by the Local Government.

Rules to be made after previous publication.

156. The power to make any rules under this Act is subject to the condition of the rules being made after previous publication. IV of 18

Powers exerciseable by the Financial Commissioner from time to time.

157. All powers conferred by this Act on the Financial Commissioner may be exercised from time to time as occasion requires.

Exclusion of Jurisdiction of Civil Courts.

Exclusion of jurisdiction of Civil Courts in matters within the jurisdiction of Revenue-officers.

158. Except as otherwise provided by this Act—

(*1*) a Civil Court shall not have jurisdiction in any matter which the Local Government or a Revenue-officer is empowered by this Act to dispose of, or take cognizance of the manner in which the Local Government or any Revenue-officer exercises any

powers

powers vested in it or him by or under this Act; and in particular—

(2) a Civil Court shall not exercise jurisdiction over any of the following matters, namely :—

(*i*) any question as to the limits of any land which has been defined by a Revenue-officer as land to which this Act does or does not apply;

(*ii*) any claim to compel the performance of any duties imposed by this Act or any other enactment for the time being in force on any Revenue-officer, as such;

(*iii*) any claim to the office of kanungo, zaildar, inamdar or village-officer, or in respect of any injury caused by exclusion from such office, or to compel the performance of the duties or a division of the emoluments thereof;

(*iv*) any notification directing the making or revision of a record-of-rights;

(*v*) the framing of a record-of-rights or annual record, or the preparation, signing or attestation of any of the documents included in such a record;

(*vi*) the correction of any entry in a record-of-rights, annual record or register of mutations;

(*vii*) any notification of the undertaking of the general re-assessment of a district or tahsil having been sanctioned by the Governor-General in Council;

(*viii*) the claim of any person to be liable for an assessment of land-revenue or of any other revenue assessed under this Act;

(*ix*) the amount of land-revenue to be assessed on any estate or to be paid in respect of any holding under this Act;

(*x*) the

(*x*) the amount of, or the liability of any person to pay, any other revenue to be assessed under this Act, or any cess, charge or rate to be assessed on an estate or holding under this Act or any other enactment for the time being in force;

(*xi*) any claim relating to the allowance to be received by a landowner who has given notice of his refusal to be liable for an assessment, or any claim connected with, or arising out of, any proceeding taken in consequence of the refusal of any person to be liable for an assessment under this Act;

(*xii*) the formation of an estate out of waste-land;

(*xiii*) any claim to hold free of revenue any land, mills, fisheries or natural products of land or water;

(*xiv*) any claim connected with, or arising out of, the collection by the Government, or the enforcement by the Government of any process for the recovery of land-revenue or any sum recoverable as an arrear of land-revenue;

(*xv*) any claim to set aside, on any ground other than fraud, a sale for the recovery of an arrear of land-revenue or any sum recoverable as an arrear of land-revenue;

(*xvi*) the amount of, or the liability of any person to pay any fees, fines, costs or other charges imposed under this Act;

(*xvii*) any claim for partition of an estate, holding or tenancy, or any question connected with, or arising out of, proceedings for partition, not being a question

question as to title in any of the property of which partition is sought ;

(*xviii*) any question as to the allotment of land on the partition of an estate, holding or tenancy, or as to the distribution of land subject by established custom to periodical re-distribution, or as to the distribution of land-revenue on the partition of an estate or holding or on a periodical re-distribution of land, or as to the distribution of rent on the partition of a tenancy ;

(*xviii*) (*a*) any question connected with or arising out of or relating to any proceedings for the determination of boundaries of estates subject to river action under sections 101A, 101B, 101C, and 101D, respectively of Chapter VIII ; Punjab Act I of 1899.

(*xix*) any claim to set aside or disturb a division or appraisement of produce confirmed or varied by a Revenue-officer under this Act ;

(*xx*) any question relating to the preparation of a list of village-cesses or the imposition by the Local Government of conditions on the collection of such cesses ;

(*xxi*) any proceeding under this Act for the commutation of the dues of a superior landowner ;

(*xxii*) any claim arising out of the enforcement of an agreement to render public service in the lieu of paying land-revenue ; or

(*xxiii*) any claim arising out of the liability of an assignee of land-revenue to pay a share of the cost of collecting or re-assessing such revenue, or arising out of

of the liability of an assignee to pay out of assigned land-revenue, or of a person who would be liable for land-revenue if it had not been released, compounded for, or redeemed, to pay on the land-revenue for which he would, but for such release, composition or redemption be liable, such a percentage for the remuneration of a zaildar, inamdar, or village-officer as may be prescribed by rules for the time being in force under this Act.

THE SCHEDULE,

(See section 2)

ENACTMENTS REPEALED.

Number and year.	Title or subject of enactment.	Extent of repeal.
1	2	3
Act XXI of 1866 ..	Creation of new Zilas..	So much as has not been repealed.
Act VI of 1867 ..	To enable the Lieutenant Governor of the Punjab to alter the limits of existing districts in any part of the territories under his Government.	The whole.
Act VIII of 1870 ..	The Court-fees Act, 1870	In section 20 clause (i) the words "and Revenue," and the whole of section 23.
Act XXXIII of 1871 ..	The Punjab Land Revenue Act, 1871.	The whole.
Act IV of 1872 ..	The Punjab Laws Act, 1872.	Section 21.
Act XVIII of 1884 ..	The Punjab Courts Act, 1884	Chapter VI.
Regulation I of 1872 ..	The Punjab Frontier Regulation, 1872.	Rules 26 to 46 (both inclusive) comprising sections G, H, I and K of the Hazara Settlement Rules.

24 LR—500—27-10-34—SGPP Lahore

THE PUNJAB LAND REVENUE (AMENDMENT) ACT 1934

PUNJAB ACT VI OF 1934.

[*Received the assent of His Excellency the Governor on the 6th December, 1934, and that of His Excellency the Viceroy and Governor-General on the 21st December, 1934, and was first published in the* Punjab Government Gazette, Extraordinary, *of the 3rd January 1935.*]

AN ACT TO AMEND THE PUNJAB LAND REVENUE ACT, 1887.

WHEREAS it is expedient further to amend the Punjab Land Revenue Act, 1887, in the manner hereinafter appearing, it is hereby enacted as follows :— Preamble.

Short title and commencement.

1. (*1*) This Act may be called the Punjab Land Revenue (Amendment) Act, 1934.

(*2*) It shall come into force at once.

Amendment of section 50 of the Punjab Land Revenue Act, 1887.

2. In sub-section (*2*) of section 50 of the Punjab Land Revenue Act, 1887, the word " proposals " shall be substituted for the word " proposal. "

Amendment of section 51 of the Punjab Land Revenue Act, 1887.

3. In sub-section (*3*) of section 51 of the said Act, the brackets and figure " (2) " shall be substituted for the brackets and figure " (1) " occurring for the second time.

Amendment of section 51 of the Punjab Land Revenue Act, 1887.

4. In sub-section (*4*) of section 51 of the said Act, for the words " or of which the last previous assessment was made under the provision of clause (*b*) of sub-section (*1*) of section 59, or in case of land in which canal irrigation has been introduced, after the date of the orders passed under the provisions of sub-section (*1*) of section 51, at the last previous assessment " the words " or in which canal irrigation has been introduced after the date of the orders passed under the provisions of sub-section (*1*) at the last previous assessment, or in the case of land of which the last previous assessment was made under the provisions of clause (*b*) of sub-section (*1*) of section 59 " shall be substituted.

Amendment of section 59 of the Punjab Land Revenue Act, 1887.

5. In sub-section (*3*) of section 59 of the said Act after the word " prescribe " and before the word " executive " the word " by " shall be inserted.

Price : Re. 0-1-0.

42 LR —1,000—14-1-35—SGPP Lahore.

THE PUNJAB DEBTORS' PROTECTION ACT

(ACT II OF 1936)

WITH
NOTES AND CASE-LAW.

25

1936

THE UNIVERSITY BOOK AGENCY
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TABLE OF CONTENTS.

PREAMBLE.

CHAPTER I.

PRELIMINARY.

SECTIONS—

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II.

EXECUTION OF DECREES.

3. Definitions.
4. Temporary alienation of land in execution of decree for the payment of money.
5. Partial exemption of land.
6. Collector and Commissioner deemed to be acting judicially.
7. Limitation for appeals.
8. Rules to be made after previous publication.
9. Exemption of ancestral property from liability.
10. Exemption of standing crops and trees from attachment or sale.
11. Execution barred in certain cases.

CHAPTER III.

BURDEN OF PROOF.

12. Burden of proof of consideration.

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THE

Punjab Debtors' Protection Act 1936.

PUNJAB ACT II OF 1936.

(Passed by the Punjab Legislative Council)

Received the assent of His Excellency the Governor of the Punjab on the 16th April, 1936, and that of His Excellency the Viceroy and Governor-General on the 30th May, 1936, and was first published in the Punjab Government Gazette Extra-ordinary, of the 6th June, 1936.

An Act to provide for the more effective protection of debtors in the Punjab.

Preamble.

WHEREAS it is expedient for the more effective protection of debtors to modify the existing law on certain points and to amend the law with respect to persons carrying on business as money-landers;

And whereas the previous sanction of the Governor-General under sub-section (3) of section 80-A of the Government of India Act, and the previous sanction of the Governor under section 80-C of the said Act, have been obtained;

It is hereby enacted as follows :—

NOTES.

Object of the Act.—This Act is the third of a series of Acts passed by the Punjab Legislative Council for the relief of debtors, the first one being the Punjab Regulation of Accounts Act I of 1930, and the second being the Punjab Relief of Indebtedness Act, VII of 1934.

The object of the present Act as disclosed in the preamble is to

provide legislation for the more effective protection of the debtors. This protection has been afforded by transferring to the Collector the execution of decrees relating to land, by exempting from attachment and sale the portion of land required for the maintenance of the judgment-debtor, further by exempting from attachment and sale ancestral property, by curtailing the period of limitation for the execution of decrees, and lastly by shifting to the creditor the burden of proving consideration in some cases.

Applicability of the Act.—The preamable shows that the Act, is intended for the protection of debtors without specifying any particular class of debtors. But the operative sections of the Act show that it is meant to protect the agriculturist debtors only. The many exceptions to the definition of loan enacted in section 2 (6) *infra*, and the definition of Trader in section 2 (8) *infra* make it clear that the Act is not intended to apply to all loans and to all classes of the public. It is, for instance not applicable to banks, companies, corporations, co-operative societies, Local Government and traders. It is equally inapplicable to tenants of houses and shops in towns and cities, and consequently the execution of decrees against such tenants and the rent deeds executed by them are not within the ambit of this Act. In short, the Act does not apply to non-agriculturist debtors in general. It may be noted that in this respect this Act differs from the Punjab Relief of Indebtedness Act, VII of 1934, which presumably governs all creditors and all debtors.

Act, whether retrospective.—The Act is not expressly retrospective in its operation, but it appears that the procedural part for instance that relating to the transfer of decrees to the Collector for execution will apply to the pending cases according to the well known principle of jurisprudence that the law of procedure always applies to pending cases. On the other hand the subtantive portion *viz.* containing the period of limitation cannot be retrospective.

CHAPTER I—PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Punjab Debtors' Protection Act, 1936.

(*2*) It extends to the Punjab.

(*3*) It shall come into force at once.

NOTES.

Punjab.—The Punjab General Clauses Act I of 1898 defines the term Punjab as 'the territories for the time being administered by the Governor of the Punjab.

Sub-section (3).—It is enacted in this sub-section that the Act shall come into force at once, which means as soon as it is passed

Now the final step in the passing of an Act is the assent given by the Viceroy and the Governor-General. This assent was given on the 30th May, 1936. According to the Punjab General Clauses Act (I of 1898) Section 3, an Act which is not expressed to come into operation on a particular day shall come into operation on the day when the assent of the Governor-General is first published. This was done on the 6th June, 1936. The Act, therefore, came into force on the 6th June, 1936.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) " Bank " means a company carrying on the business of banking and registered under any of the enactments relating to companies for the time being in force in the United Kingdom, or in any of the Colonies or Dependencies thereof, or in British India, or incorporated by an Act of Parliament or by Royal Charter or Letters Patent or by any Act of the Indian Legislature.

(*2*) " Company " means a company registered under any of the enactments for the time being in force in the United Kingdom or in any of the Colonies or Dependencies thereof, or in British India, or incorporated by an Act of Parliament or by Royal Charter or Letters Patent, and includes Life Assurance Companies to which the Indian Life Assurance Companies Act, 1912, applies.

(*3*) " Co-operative Society " means a society registered under the provisions of Co-operative Societies Act, 1912.

NOTES.

The above definitions are important in connection with the definition of ' loan ' given hereafter.

(*4*) " Court " includes a court acting in the exercise of insolvency jurisdiction.

NOTES.

Insolvency jurisdiction.—Ordinary Civil Courts do not do insolvency work. As the courts doing insolvency work have frequently to deal with questions relating to the sale or temporary alienation of agricultural land, the Legislature has expressly enacted that the term court includes Insolvency Courts, so that the relief intended to be given to the debtors may be as complete as possible.

(*5*) " Interest " includes the return to be made, over and above what was actually lent, whether the same is charged or sought to be recovered, specifically by way of interest, or otherwise.

(6) "Loan" means an advance whether of money or in kind at interest and shall include any transaction which the court finds to be in substance a loan, but it shall not include :—

(*i*) a deposit of money or other property in a Post Office Savings Bank or any other bank, or in a company or with a co-operative society ;

(*ii*) a loan to or by, or a deposit with any society or association registered under the Societies Registration Act, 1860 or under any other enactment for the time being in force ;

(*iii*) a loan advanced by the Local Government or by any local body authorized by the Local Government ;

(*iv*) a loan advanced by a bank, a co-operative society or a company whose accounts are subject to audit by a certificated auditor under the Indian Companies Act, 1913 ;

(*v*) a loan advanced to a trader ;

(*iv*) an advance made on the basis of a negotiable instrument as defined in the Negotiable Instruments Act, 1881, other than a promissory-note ;

(*vii*) a transaction which is, in substance, a mortgage or a sale of immovable property ;

NOTES.

This definition is important in connection with the next definition of ' money-lender ' because unless the debt advanced by a person is a loan within the meanting of this definition, he cannot be called a money-lender and is not affected by section 12 of this Act.

(7) "Money-lender" means a person who, in the regular course of business, advances a loan as defined in this Act and shall include this legal representatives and the successor-in-interest, whether by inheritance, assignment or otherwise, of the person who advanced the loan.

NOTES.

This definition is very important and should be carefully noted. The burden of proving the passing of the consideration of a loan does not shift to the plaintiff-creditor unless the loan was advanced by a money-lender. If a bank, or a company or a corporation or other

society, or a trader institutes a suit in court, the burden of proof will be regulated by the old law and not by section 12 of this Act If however the plaintiff is a money-lender, the case will be governed by section 12 of this Act.

Money-lender and creditor.—In this Act the word money-lender is used while in the Punjab Regulation of Accounts Act, I of 1930, the word creditor is used, but both mean one and the same thing and the definitions are identical in other respects.

Who is a money-lender.—According to the definition a money-lender is he who *in the regular course of business* advances a loan to another person *viz.*, a person who lends money as a business or profession. It follows therefore that a person who casually lends money to help a friend in time of need cannot be called a money-lender. Such a person is not affected by the provisions of this Act. The Lahore High Court (Bhide, J.) has recently held in a case under the Punjab Regulation of Accounts Act, I of 1930, that where the plaintiff admitted that he had advanced loans to a number of persons, he should be held to have advanced the loans in the regular course of business within the meaning of the definitions of creditor as used in that Act. *Kundun Lal* v. *Ram Partab*, A. I. R. 1936 Lah. 469).

(8) "Trader" means a person who in the regular course of business buys and sells goods or other property, whether movable or immovable, and shall include—

(*i*) a wholesale or a retail merchant,

(*ii*) a commission agent,

(*iii*) a broker,

(*iv*) a manufacturer,

(*v*) a contractor,

(*vi*) a factory owner,

but shall not include a person who sells his own agricultural produce or cattle, or buys agricultural produce or cattle for his own use.

NOTES.

This definition is the same as that given in the Punjab Regulation of Accounts Act, I of 1930 A loan advanced to a trader will not be affected by section 12 of this Act.

CHAPTER II.—EXECUTION OF DECREES.

Definitions.

3. In this Chapter unless there is anything repugnant in the subject or context,—

(*l*) "land" means land which is not occupied as

the site of any building in a town or village, and is occupied or has been let for agricultural purposes, or for purposes subservient to agriculture, or for pasture, and includes the sites of buildings and other structures on such land ;

NOTES

This definition of land is taken from the Punjab Tenancy Act 1887. Under that Act it has been held that in order to determine whether a particular piece of land is " Land " within the meaning of this definition what has to be considered is the character and use of the property at the time immediately before the dispute arises (*Seth Karari Mal* v. *Wasawa and others*, A. I. R. 1923 Lah. 462 : 83 I. C. 171). On this point *see* also *Uttam Chand* v. *Khodaya*, A. I. R. 1929 Lah. 164 : 115 I. C. 417, and *Mawasi* v. *Maya Ram*, 31 P. R. 1901, and *Ram Sarn* v. *Karam Chand*, A. I. R 1935 Lah. 105.

What is land.—Applying the above test it has been held that the following are land :—

Ghair mumkin land outside the *abadi* and attached to a well upon which *khurlis* are built and *bhusa* is stocked (*Ganda Singh* v. *Nathu Singh*, (12 P. R. 1907).

A well (40 P. R. (1893)

What is not land.—The following are not land : —

The site of a water mill (77 P. R. 1904).

Land used for manufacture of saltpetere (A. I. R. 1923 Lah. 462 : 83 I. C. 171).

(2) " Collector " means the Deputy Commissioner of a district or any officer specially empowered by the Local Government to exercise the powers of a Collector under this Chapter.

Temporary alienation of land in execution of decree for the payment of money.

4. (*1*) Notwithstanding anything contained in any other enactment for the time being in force, whenever a civil court orders that land be attached and alienated temporarily in the execution of a decree for the payment of money the proceedings of such attachment and alienation shall be transferred to the Collector.

(2) On the proceedings being transferred to him by the civil court the Collector shall decide the period of alienation, which shall not exceed twenty years in the case of land owned by a member of a statutory agricultural tribe, determined to be such by the Local Government in

exercise of the powers conferred by section 4 of the Punjab Alienation of Land Act, 1900.

NOTES.

Provisions similar to this section are contained in section 68 of the Civil Procedure Code. But that section cannot come into force unless a notification applying that section to a particular province is published. No notification under section 68 of the C. P. C, was issued for the Punjab and that section therefore was not in force here. This section now enacts that as soon as a decree-holder applies for attachment of land, and the court orders attachment, the execution proceedings shall be transferred to the Collector and the Collector alone shall determine the period of alienation, etc.

Partial exemption of land.

5. Such portion of the judgment-debtor's land shall be exempted from temporary alienation as in the opinion of the Collector, having regard to the judgment-debtor's income from all sources except such income as is dependent on the will of another person, is sufficient to provide for the maintenance of the judgment-debtor and the members of his family who are dependent on him.

NOTES.

This section affords the much needed protection to the agriculturist-debtor. Formerly the courts sometimes used to leave some portion of the judgment-debtors land for his maintenance, but it was not a universal rule. This section makes the rule obligatory.

Collector and Commissioner deemed to be acting judicially.

6. The Collector when acting under sections 4 and 5 shall be deemed to be acting judicially and shall act in accordance with the provisions of law applicable to the Court from which the proceedings were transferred to him and any party aggrieved by an order of the Collector under section 4 or 5 shall have a right of appeal to the Commissioner who when hearing appeals under this section shall be deemed to be acting judicially and shall act in accordance with the provisions of law applicable to a Civil Court of Appeal.

NOTES.

Before the passing of this Act, in execution of decrees relating to agricultural land, the Collector simply used to make a recommendation to the court and it was the court which fixed the period of the temporary alienation of land and the appeal if any against the order of the court lay to the District Judge or the High Court according to

the jurisdictional value of the case. But now the appellate jurisdiction of both the District Judge and the High Court has been taken away and the Commissioner will hear the appeal against the order of the Collector irrespective of the value of the case.

Law to be applied.—The section lays down that boths the Collector and the Commissioner when acting under this section shall follow the provisions of law applicable to the court from which the case was transferred. This means that the Collector and the Commissioner shall be guided by the provisions of the Civil Procedure Code in the case of the decrees of the Civil Courts, and by the Provincail Insolvency Act in case of the orders of the Insolvency Court.

Limitation for appeals

7. The period of limitation for an appeal under the last foregoing section shall run from the date of the order appealed against and shall be sixty days.

NOTES.

The period of appeal to the District Judge and to the High Court is 30 days and 60 days respectively. But under the Punjab Tenancy Act and the Land Revenue Acts, the period of an appeal to Commissioner against the order of the Collector is 60 days. This section prescribes the same period as is fixed under the Punjab Tenancy and the Land Revenue Acts so that the appellants may not be misled on this point.

Rules to be made after previous publication.

8. The Local Government may, subject to the conditions, of previous publication, make rules for carrying into effect the provisions of sections 4, 5, 6 and 7 of this Chapter.

NOTES.

The Act has just been published and no rules have as yet been framed by the Local Goverment.

Exemption of ancestral property from liability.

9. When custom is the rule of decision in regard to succession to immovable property then, notwithstanding any custom to the contrary, ancestral immovable property in the hand of a subsequent holder shall not be liable in the execution of a decree or order of a court relating to a debt incurred by any of his predecessors-in-interest:

Provided that, when the debt has been expressly charged by way of mortgage on ancestral immovable property by a predecessor-in-interest, the court shall determine the liability of such land as if this section had not been passed :

Provided further, and subject to the foregoing proviso, that, in respect of a debt incurred before the commencement of this Act, ancestral property in the hands of a subsequent holder may be liable, only if all the following conditions, are satisfied :

First.—That, before such liability is determined, the judgment-debtor shall be given sufficient opportunity to show cause against such liability.

Second—That such liability was permitted by the rule of custom applicable to the judgment-debtor immediately before the commencement of this Act, and nothing in this section shall prevent the judgment-debtor from proving the contrary.

Third.—That the decree-holder is able to show to the satisfaction of the court that, at the time the debt was originally incurred, there was a subsisting judgment or order of a competent court, not in *ex parte* proceedings, holding that such a custom was applicable to the subtribe in the tahsil to which the judgment-debtor belongs.

Fourth.—That the judgment-debtor is not able to show to the satisfaction of the court that, at the time the debt was originally incurred, there was a subsisting judgment or order of a competent court not in *ex-parte* proceedings, holding to the contrary and subsequent to the judgment relied upon by the decree-holder.

NOTES.

This section embodies the principle of the Full Bench ruling reported as 4 P. R. 1913. In respect of debts incurred after the commencement of this Act, the section absolutely exempts ancestral immovable property in the hands of a subsequent holder unless the debt was expressly charged by way of mortgage on such property by a predecessor-in interest of the subsequent holder. More attachment in the life-time of the predecessor-in-interest would not help the decree-holder.

As regards the debts incurred before the commencement of this Act, the section lays down certain conditions which must all be fulfilled before the ancestral immovable property in the hands of the subsequent holder can be taken in execution of the decree. These conditions in plain language mean that before the liability is fixed on such ancestral immovable property the judgment-debtor must get a reasonable notice and secondly, the court must be satisfied that a valid custom fixing liability on such property, existed at the time when the debt was incurred and that such a custom was recognized by the latest judgment

of a competent court. It should be very carefully noted that this custom helps the decree-holder only so far as the debts before the commencement of this Act are concerned. After the commencement of this Act even an established and proved custom will not avail the decree-holder in any way.

Exemption of standing crops and trees from attachment or sale.

10. Notwithstanding anything to the contrary contained in any other enactment for the time being in force :—

(*1*) standing crops, other than cotton and sugarcane, shall not be liable to attachment or sale in the execution of a decree ;

(*2*) standing trees apart from the land on which they stand shall not be liable to sale in the execution of a decree or an order of a court.

NOTES.

The exemption of cotton and sugarcane from the operation of this section is perhaps due to the fact that cotton and sugarcane are more or less valuable commercial commodities by sale of which the debtors debt can be relieved to some extent, while the other crops are either needed for the agriculturist for his food (such as wheat, barley, etc or as fodder for his cattle and even if attached cannot fetch much value.

Execution barred in certain cases.

11. (*1*) Notwithstanding anything to the contrary contained in any other enactment for the time being in force, where an application has been made to execute a decree passed after the commencement of this Act against a debtor as defined in sub-section (2) of section 7 of the Punjab Relief of Indebtedness Act, 1934, and not being a decree granting an injunction, no order for the execution of the same decree shall be made upon any fresh application presented after the expiration of six years from—

(*a*) the date of the decree sought to be executed, or

(*b*) where the decree or any subsequent order directs any payment of money or the delivery of any property to be made at a certain date or at recurring periods, the date of the default in making the payment or delivery in respect of which the applicant seeks to execute the decree.

(2) Nothing in this section shall be deemed—

(*a*) to preclude the Court from ordering the execu-

tion of a decree upon an application presented after the expiration of the said term of six years, where the judgment-debtor has, by fraud or force, prevented the execution of the decree at some time within six years immediately before the date of the application ; or

(*b*) to limit or otherwise affect the operation of Article 183 of the First Schedule to the Indian Limitation Act, 1908.

NOTES.

Debtor.— According to section 7 (2) of the Punjab Relief of Indebtedness Act, 1934, a debtor means a person who owes a debt and

(*i*) who both earns his livelihood mainly by agriculture, and is either a land-owner, or tenant of agricultural land, or a servant of a landowner, or of a tenant of agricultural land, or

(*ii*) who earns his livelihood as a village menial paid in cash or kind for work connected with agriculture :

Provided that a member of a tribe notified as agricultural under the Punjab Alienation of Land Act, 1900, shall be presumed to be a debtor as defined in this section until it is proved that his income from other sources is greater than his income from agriculture.

Explanation.—(*i*) A debtor shall not lose his status as such through involuntary un-employment on an account of incapacity, temporary or permanent, by bodily infirmity, or if he is or has been in service of His Majesty's Military or Naval Forces, only on account of his pay and allowances or pension exceeding his income from agricultural sources.

(*ii*) A debtor shall not lose his status as such by reason of the fact that he makes income by using his plough cattle for purposes of transport.

(*iii*) A debtor shall not lose his status as such only because he does not cultivate with his own hands.

Principle.—This section embodies the words of section 48 of the Civil Procedure Code with this difference that the word six years is used in place of twelve years.

Section not applicable to all decrees—It should be very carefully noted that this section is not applicable to all decree It only applies,

(*a*) if the decree is passed of the commencement of this Act *viz*: the 6th June, 1936, and

(*b*) if the decree is passed and sought to be executed against a debtor as defined in the Punjab Relief of Indebtedness Act, which definition has been re-produced above.

This section does not apply

(*a*) if the decree is for an injunction even though the decree is passed against a debtor after the commencement of this Act.

(*b*) if the decree was passed before this Act came into force *viz*, this section is not retrospective and does not affect decrees passed before the 6th June, 1936.

(*c*) If the judgment-debtor is not a debtor within the above definition which in plain language means what is ordinarily known as an agricultural debtor.

(*d*) if the decree is passed by a chartered High Court in the exercise of original jurisdiction or by His Majesty in Council.

In all cases therefore to which this section does not apply the period for execution is still twelve years and section 48, C. P. C., is fully applicable. The period has only been curtailed in the case of decrees passed against agriculturist debtors after this Act came into force.

Article 183 of the Limitation Act.—This article relates to a judgment or decree or order of a chartered court in the exercise of its ordinary original civil jurisdiction, or an order of His Majesty in Council, and prescribes a period of twelve years for the enforcement of such judgment, decree etc, which are therefore, not affected by this section.

Decree may be executed at any time within six years—Article 182 of the Limitation Act, which lays down that a decree must be executed once at least in three years to keep it alive, has not been mentioned in this section. The effect of this is that a decree passed against an agriculturist-debtor need not be executed once in every three years to keep it alive, but it can be executed at any time within six years.

CHAPTER III.—BURDEN OF PROOF.

Burden of proof of consideration

12. Notwithstanding anything to the contrary contained in any other enactment for the time being in force, the burden of proving that any consideration alleged to have been paid by a money-lender actually passed shall be

on him ; unless the consideration is acknowledged by a debtor in his own handwriting or has been endorsed by the Registering Officer acting under clause (*c*) of sub-section (*1*) of section 58 of the Indian Registration Act, 1908, as having been paid in his presence.

NOTES.

This section introduces a very important change in the law hitherto prevailing as to the burden of proof of consideration.

Section applies only to money-lenders.—The first point to be noted in connection with this section is that it applies to money lenders only and not to the public in general. A person who has casually lent money to a friend or relation is outside the ambit of this section.

Scope of the section.—The burden of proof under this section will shift to the creditor only,

(*a*) if he is a money-lender

(b) if the debtor has not acknowledged in his own handwriting the receipt of the consideration *i.e.*, if the debtor is illiterate or he has simply signed the pronote without signing the receipt of consideration.

In all other cases the burden will still be on the debtor.

Indian Registration Act.— Section 58 (1) (c) of the Indian Registration Act, mentioned in this section authorises the Registering Officer to endorse on the document presented for registration both the actual money paid before him and any admission of receipt of consideration in whole or in part, made in his presence. Now this section mentions only the actual payment of money made in the presence of the Registering Officer, and not this admission of the receipt of consideration made before him. This presumably means that in cases where nothing is actually paid before the Registering Officer, but consideration is admitted to have been received, the burden of proving the passing of consideration will shift to the money-lender. The burden will remain on the debtor only if consideration is actually paid before the Registering Officer.

RULES

MADE UNDER

The United Provinces Regulation of Sales Act, 1934

26

ALLAHABAD:
SUPERINTENDENT, PRINTING AND STATIONERY, UNITED PROVINCES
1935

X9(J):(Z252)
Gt

INTRODUCTION

THE Regulation of Sales Act applies only when agricultural land (as defined in the Act itself) is sought to be sold in execution of a *Civil* Court decree against an agriculturist (as defined in the Act itself) *in respect of a loan taken prior to the passing of the Act.*

It does *not* apply to the execution of decrees of a *Revenue* Court, and only to the execution of those decrees of a *Civil* Court described above.

Execution proceedings in all cases not covered by this Act should be carried out in accordance with the ordinary law and the rules thereunder.

Errata slip to Appendix I to the Rules framed by the Local Government under the United Provinces Regulation of Sales Act, 1934

(1) *Page* 2A, in line 10 of the settlement circles under tahsil Saharanpur, *for* "Haraura II and III" *substitute* "Haraura III and IV."

(2) *Page* 2A, in line 12 under the same tahsil, *for* "Fyzabad I" *substitute* "Fyzabad III."

(3) *Page* 10A, in the first column *for* "Dalaganj" *read* "Dataganj."

(4) *Page* 15A, under Allahabad District, in the second column, both lines opposite tahsil Sirathu, *for* "pargana Kaya" *substitute* "pargana Kara."

(5) *Pages* 27A *and* 28A in the third column, against the whole of tahsil Hardoi, *for* "32" *substitute* "23."

(6) *Page* 32A, in the second line of the second column opposite tahsil Partabgarh, *for* "Athena" *substitute* "Ateha."

GOVERNMENT OF THE UNITED PROVINCES

No. 643-Rev.

Revenue Department

Dated Naini Tal, the 10th August, 1935

NOTIFICATION

In continuation of Revenue Department notification no. 324-Rev., dated the 27th April, 1935, it is hereby notified for general information that the local Government have, in exercise of the powers conferred by section 11 of the United Provinces Regulation of Sales Act, 1934, made the following rules under that Act.

By order,

A. C. TURNER,

Secretary.

Rules made under the United Provinces Regulation of Sales Act, 1934

The marginal references are to the sections of the Act concerned

1.—In a case in which the decree directs the sale of a particular piece of agricultural land in pursuance of a contract specifically affecting the same, the land to be valued by the Collector shall be that particular piece of land. In all other cases the Collector shall value the whole of the debtors' agricultural land mentioned in the execution decree. Section 3(2).

2.—The Collector shall obtain from the tahsildar of each tahsil in which the land to be valued is situated a statement showing the net profits as defined in sub-section (2) of section 3 of each separate property included in that land. The net profits will be calculated as laid down in paragraphs 458—472 of the Revenue Manual, ignoring the remissions in rent and revenue due to the slump in prices. Section 3(2).

For the purposes of these rules properties which are situated in different mahals or in different villages will be considered to be separate properties.

3.—The Collector shall send for the parties, and, after hearing such as appear, shall finally determine the net profits to be used in valuation and the multiples at which each of the separate properties are to be valued. Section 3(3).

The Collector will in every case carry out a very careful scrutiny of the statement of net profits and in particular will ensure that all income of a miscellaneous nature has been included and that the estimates therefor are equitable.

4.—The standard multiples (or standard transfer multiples) for *revenue-paying* properties are given in Appendix I. Section 3(2).

For *revenue-free* properties the standard multiples are—

(*a*) in permanently settled areas 12½ per cent. above the standard multiples shown in Appendix I, and

(*b*) in temporarily settled areas 25 per cent. above the standard multiples shown in Appendix I.

Sections 3(2) and (3).

5.—For reasons to be recorded the Collector may for any particular property fix a multiple which differs from the standard multiple of the circle in which that property lies.

Among others the following would be good reasons for departing from the standard multiple:

(i) If compared with other properties in the same circle the rent is easily and regularly collected and the cost of management is low, the multiple might be raised. If the reverse is the case, the multiple might be lowered.

In arriving at a decision on the relative ease or otherwise of rental collections the Collector shall have regard both to the collections in the years just before the slump in prices and to the collections of the rents as reduced by the slump remissions in the years since the fall in prices.

(ii) If the property to be valued is markedly above the average of the circle in which it lies or is definitely more stable and secure in the matter of irrigation than the average of the circle, the multiple might be raised. If the reverse is the case, the multiple might be lowered.

Sections 3(2) and (3).

6.—The Collector shall not, without the previous sanction of the Commissioner, fix a multiple for any property which differs by more than 16 per cent. either way from the standard multiple of the circle in which the property lies.

Sections 3(2) and (3).

7.—(1) When the Collector has fixed the net profits and the multiple to be used for each separate property comprised in the land to be valued, he will calculate the value of each separate property by multiplying its net profits by the selected multiple.

(ii) The Collector will then by addition calculate the value of the whole of the land to be valued under rule 1.

Section 3(1).

8.—If the value of the whole of the land so valued exceeds the amount of the decree plus the proportionate amount of the prior encumbrances, if any, the Collector shall then proceed, in accordance with sub-section (1) of section 3 of the Act, to determine the share of that land which he will offer to the decree-holder under clause (*a*) of section 4.

Example—If the value under sub-section (2) of section 3 of the land valued is Rs.1,00,000 and there is a prior encumbrance of Rs.30,000, and the debt is Rs.20,000, the Collector will offer the decree-holder in full satisfaction of his debt a share in the land valued equal to $\frac{20,000}{1,00,000 - 30,000} = 2/7$ths.

9.—The powers of a Collector under the Act are hereby delegated to Sub-divisional Officers and to all Assistant Collectors who have exercised the powers of assistant collector of the first class for more than five years. Section 11(1).

10.—In the districts of Almora and Garhwal, in the Naini Tal tahsil of the Naini Tal district and in the tract of Jaunsar-Bawar in the Dehra Dun district the Collector shall apply such multiples as appear to him to be fair in the circumstances of the case either to the net profits or to the land revenue of the land to be valued, or he shall apply rates to the area of that land. Proviso to Section 3(2).

APPENDIX I

Standard Transfer Multiples *

MEERUT DIVISION

DEHRA DUN DISTRICT

Tahsil	Settlement Circles	Standard transfer multiple
Dehra ..	Home	29
	Dehra Suburban	
	Dehra Plateau	
	Submontane	26
	Hill tract	
	Jakhan Canal	
	Marsh	
	Boulder	25
	Song Khadar	
	Nagsidhsuswa	
	River tract	23

SAHARANPUR DISTRICT

Roorkee ..	Manglaur II	24
	Manglaur IV	
	Roorkee V	
	Jwalapur III	
	Roorkee VI	
	Jwalapur IV	
	Roorkee VII	
	Manglaur XI	22
	Jwalapur XI	
	Jamalpur VII	
	Manglaur X	
	Manglaur III	
	Jwalapur V	
	Bhagwanpur III	
	Roorkee VIII	
	(GROUP D)	
	Jwalapur I	
	Jwalapur VIII	
	Bhagwanpur IV	
	Jwalapur II	
	Jwalapur VI	

*These standard transfer multiplies are for revenue-paying areas only. In the case of revenue-free areas the standard transfer multiples are:

(*a*) in permanently settled areas 12½ per cent. above the multiples shown in this appendix.

(*b*) in temporarily settled areas 25 per cent. aboye the multiples shown in this appendix.

SAHARANPUR DISTRICT—(*concld.*)

Tahsil	Settlement Circles	Standard transfer multiple
Roorkee—(*concld.*)	Roorkee I	17
	Bhagwanpur I	
	Jwalapur IX	
	Bhagwanpur II	
	Manglaur I	
Deoband ..	Deoband III and V	20
	Rampur VII	
	Nagal I, II and VI	16
	Nagal IV	14
	Deoband IV	
Nakur ..	Nakur I	25
	Sultanpur VIII	
	Sarsawa II	
	Gangoh II	
	Sultanpur IV, V, VI and VII ..	22
	Nakur III	
	Sarsawa I and III	
	Gangoh III and IV	
	Sultanpur I, III and IX	19
	Sarsawa V	
	Sultanpur II	
	Nakur V	
	Gangoh V	
Saharanpur ..	Saharanpur I and III	26
	Muzaffarabad I and VI	
	Fyzabad IV and VI	
	Haraura II	
	Muzaffarabad II, III and V ..	20
	Haraura I	
	Fyzabad II	
	Fyzabad I and V	13
	Saharanpur II	
	Haraura ~~II~~ and III ~~and~~ IV ..	
	Muzaffarabad IV	
	Fyzabad ~~III~~	
	MUZAFFARNAGAR DISTRICT	
Jansath ..	Jauli Jansath Canal	27
	Khatauli Canal	
	Bhokerheri Canal	
	Bhumosambalhera Canal	
	Bhokerheri Bhoor	
	Jauli Jansath Bhoor	25
	Khatauli Bhoor	
	Khatauli Nagar	
	Bhokerheri G. S. T.	
	Jauli Jansath Nagar	

MUZAFFARNAGAR DISTRICT—(*concld.*).

Tahsil	Settlement Circles	Standard transfer multiple
Jansath—(*concld.*).	Bhumosambalhera G. F. T. ..	22
	Bhumosambalhera G. S. T. ..	
	Khatauli Kali	
	Bhumosambalhera Bhoor	
	Bhokerheri G. F. T.	
Kairana ..	Shamli Canal I, II and III ..	27
	Jhinjhana Canal I and II	
	Kairana Canal II	
	Thanabhawan Canal III	
	Shamli Northern Krishna	
	Thanabhawan Northern Krishna ..	
	Jhinjhana Katha Jumna I ..	24
	Kairana Katha Jumna I	
	Bidhauli Katha Jumna I	
	Kairana Katha Jumna II	22
	Bidhauli Katha Jumna II ..	
	Jhinjhana Katha Jumna II ..	
Muzaffarnagar	Baghra Canal	28
	Baghra Hindan	
	Purchhapar Canal	
	Muzaffarnagar Canal	
	Charthawal Canal	
	Purchhapar G. F. T.	
	Muzaffarnagar Kali	
	Purchhapar Bhoor	
	Muzaffarnagar Bhoor	25
	Gordhanpur Special Khadir ..	
	Purchhapar G. S. T.	
	Charthawal Hindan	
	Charthawal Kali	22
	Gordhanpur G. S. T.	
	Puchhapar Kali	
	Gordhanpur G. S. T. (Non-alluvial) ..	
Budhana ..	Kandhla Canal I, II and III ..	28
	Budhana Canal	
	Shikarpur Canal	
	Shikarpur Hindan	
	Budhana Well	
	Shikarpur Well	
	Kandhla Well	25
	Budhana Hindan	
	Shikarpur Kali	
	Budhana Kali	22

MEERUT DISTRICT

Tahsil	Settlement Circles	Standard transfer multiple
Meerut ..	Meerut Town Circle	25
	Circles III, IV and Central ..	23
	I and II Circle, Meerut	20
Sardhana ..	Pargana Barnawa, Circles I, II and III	22
	Pargana Sardhana, I, II and III ..	
	Pargana Daurala, I, II, III and IV ..	
Ghaziabad ..	Pargana Jalalabad, Circles I, II, III, IV and V.	23
	Pargana Dasna, Circles I, II, III, IV and V.	
	Pargana Loni, Circles I and II ..	
	Pargana Loni, Circles III and IV ..	21
Baghpat ..	Pargana Baraut, I	24
	Pargana Kotana, II	
	Pargana Chaprauli, I	
	Pargana Baghpat, I(*a*) and I(*b*) ..	
	Pargana Baraut, II and III ..	23
	Pargana Kotana, II and III ..	
	Pargana Chaprauli, II	
	Pargana Baghpat, II(*a*), II(*b*) and III	
	Khadar	19
Mowana ..	Pargana Hastnapur, I, II and III ..	23
	Pargana Rithore, I, II and III ..	
Hapur ..	Pargana Garh, I	23
	Pargana Pooth, I	
	Pargana Sarawa, I	
	Pargana Hapur, I and II	
	Pargana Garh, II and III	21
	Pargana Pooth, II and III ..	
	Pargana Sarawa, II and III ..	
	Pargana Hapur, III and IV ..	

BULANDSHAHR DISTRICT

Bulandshahr ..	Siana East	31
	Ganges Canal	
	Central	
	Kali	
Anupshahr ..	Ganges Canal	
	Well	
	Usar	
Khurja ..	Ganges Canal I	
	Ganges Canal II	
	Mat Branch	
	Jewar Distributary	
Sikandrabad ..	I	
	II	

BULANDSHAHR DISTRICT—(*concld.*)

Tahsil	Settlement Circles	Standard transfer multiple
Bulandshahr ..	Chhoiya	28
Anupshahr ..	Nim	
	Kharon	
Khurja ..	Patwaha	
Bulandshahr ..	Nim	23
Anupshahr ..	Ganges Bank	
Khurja ..	East Pahasu	
	Jamna Khadir	
Shamdabad ..	III, IV, V, VI	

AGRA DIVISION

ALIGARH DISTRICT

	Koil, I and II	29
Sikandra Rao..	Sikandra Rao, I and III	
Hathras ..	Hathras, I	
Atrauli ..	Atrauli, I, II, III, IV and V ..	
	Koil, III, IV, V, VI and VII ..	
Sikandra Rao..	Sikandra Rao, II and IV	
Hathras ..	Hathras, II and III	
Khair ..	Khair, I	
Iglas ..	Iglas, I and II	26
Atrauli ..	Atrauli, VI	
Khair ..	Khair, II, III, IV and V	

MUTTRA DISTRICT

Muttra ..	Muttra Canal, I and II Main well ..	24
Chhata ..	Chhata Canal, I and II	
	Kosi Canal, I and II	
Mat ..	Mat Canal	
Sadabad ..	Sadabad Canal..	
	Sadabad Well, I	
	Mahaban Canal	
Muttra ..	N. W. Well	23
Chhata ..	Chhata Well	
	Kosi Well	
Mat ..	Mat Well	
Sadabad ..	Sadabad Well, II and III	
	Mahaban Well	
Muttra ..	Jumna	22
Chhata ..	Jumna-Chhata	
	Jumna-Kosi	
Mat ..	Jumna	
Sadabad ..	Jumna-Sadabad	
	Jumna-Mahaban	

AGRA DISTRICT

Tahsil	Settlement Circles	Standard transfer multiple
Agra ..	City Circle	35
	Suburban Circle	28
	Canal Circle	
	Dabar Canal	22
	Khadir Circle	
Itmadpur ..	Upland A and B Circles	30
	Ravine A Circle	
	Upland C Circle	27
	Ravine B Circle	
	Ravine C Circle	24
Firozabad ..	Upland A	41
	Upland B	35
	Ravine Circle	25
Bah ..	Chambal Circle	33
	Central Circle	
	Jamna Circle	
Fatehabad ..	Upland A Circle	28
	Jamna A Circle	
	Upland B Circle	26
	South-west Circle	
Khairagarh ..	Doab Circle	27
	Ban Circle	21
	Dang Circle	18
Kiraoli ..	Canal Circle	27
	Khari Nadi Circle	21
	Dabar Circle	18

MAINPURI DISTRICT

Mainpuri ..	Mainpuri, I and II	33
	Kuraoli, I, II and III	
	Ghiror, I and II	
	Mainpuri, III	31
	Kuraoli, IV	
Bhongaon ..	Bhongaon, I, IV, V(*a*) and V(*b*) ..	31
	Alipur Patti, II. IV and V(*a*) ..	
	Kishni, I and IV	
	Bewar, III, IV and V(*b*)	
	Bhongaon, II and III	29
	Kishni, II and III	
	Alipur Patti, III and IV(*a*) ..	
	Bewar, IV(*a*)	
Karhal ..	Karhal Barnohal, I and II ..	35
	Karhal Barnohal, III and IV ..	27
Shikohabad ..	Shikohabad, I and II	34
	Shikohabad, III, IV and V ..	32
Jasrana ..	Mustafabad, I and II	32

ETAH DISTRICT

Tahsil	Settlement Circles	Standard transfer multiple
Etah ..	Kali Nadi, I and II	
	Central, I and II	
	Suburban	
	Isan Nadi, I and II	
	Bhur, I and II	
	Dumat, I and II	
	Circle, I, II and III	34
	Kali Nadi	
Jalesar ..	Eastern	
	South-eastern	
	North-eastern	
	Central, I and II	
	Brackish Water	
Qasganj ..	Pargana Bilram—Northern, I, II and III.	
	Suburban, Pargana Bilram ..	
	South-west, Pargana Bilram ..	
	South-east, Pargana Bilram ..	
	Pargana Sirpura—Northern ..	
	Western ..	
	Central ..	
	Pargana Sahawar—Mohanpur ..	
	Central ..	30
	Western ..	
	Sahawar ..	
	Pargana Bachlana—Upland I and II	
Aliganj ..	Pargana Azamnagar—Bilsarh ..	
	Dumat ..	
	Central ..	
	Western ..	
	Pargana Berna—Upland, I and II ..	
	Pargana Patiali—Suburban ..	
	Dumat ..	
Qasganj ..	Pargana Bilram—Burhganga Bhur ..	
	Kali Nadi, I and II	
	Pargana Sirhpura—Eastern ..	
	Kali Nadi, I and II	
	Pargana Sahawar—Burhganga Bhur ..	27
	Kali Nadi, I and II	
	Pargana Pachlana—Upland, III ..	
Aliganj ..	Pargana Azamnagar—Burhganga Bhur	
	Kali Nadi Bhur	
	Pargana Patiali—Patiali Bhur ..	

ETAH DISTRICT—(*concld.*)

Tahsil	Settlement Circles	Standard transfer multiple
Qasganj ..	Pargana Mai—North-West ..	26
	North-East ..	
	Southern	
	Alluvial	
	Pargana Faizpur Badaria—Western ..	
	Burhganga	
	Ganges ..	
	Alluvial ..	
	Pargana Soron—Upland I, and II ..	
	Burhganga Valley, I..	
	Burhganga Valley, II	
	Pargana Sahawar—Burhganga Valley, I.	
	Burhganga Valley, II.	
	Pargana Pachlana—Tarai ..	
Aliganj ..	Pargana Azamnagar—Burhganga, I and II,	
	Kali Nadi, I and II	
	Pargana Berna—River, I and II ..	
	Pargana Patiali—River	
	Pargana Nidhpur—Danda, I and II ..	
	Burhganga ..	
	Flooded, I and II ..	
	Alluvial ..	

ROHILKHAND DIVISION

BAREILLY DISTRICT

Nawabganj ..	Circles no. I and no. V	20
	Circle no. II	
	Circles nos. III and IV	18
Baheri ..	Circle Richha no. I, Chaumahla no. I, Sirsanwan and Kabar.	22
	Circle Richha no. II and Chaumahla no. II.	19
	Circle Richha no. III and Chaumahla no. III.	17
Aonla ..	Circle Sirauli nos. III and IV, Aonla nos. IV and V, Sanha no. I and Ballia no. I.	24
	Sirauli no. I, Aonla no. I, Sanha no. II and Ballia no. III.	22
	Sirauli no. II, Aonla II and III, Sanha III, Ballia II.	18

BAREILLY DISTRICT—(*concld.*)

Tahsil	Settlement Circles	Standard transfer multiple
Faridpur	.. Circles nos. III, V and VI.. ..	22
	Circles nos. I and IV	21
	Circle no. II	
Bareilly	.. Circles nos. III, V, VI and nos. I, II of Mirganj.	25
	Circles nos. I, IV, VII and no. III of Mirganj.	24
	Circle no. II	23
	BIJNOR DISTRICT	
Bijnor	.. Circles 1, 9, 11, 12	34
	Circles 2, 7, 10, 13	31
	Circles 3, 14	
	Circles 5, 6, 8	
	Circle no. 15, Alluvial	14
Dhampur	.. Dhampur Circle 1	28
	Nehtour Circles 1, 2	
	Sheohara Circles 3, 4	
	Budpur Circles 1 and 2	
	Dhampur Circles 2, 7	
	Seohara Circles 1, 5	
	Dhampur Circles 4, 5, 9, 10 ..	
	Seohara Circle 2	
	Dhampur Circles 3, 8	26
	Dhampur Circle 6	
	Budpur Circle 3	
Najibabad	.. Kiratpur Circle 2	28
	Najibabad 1	
	Akbarabad 1, 2, 3	
	Kiratpur 1, 4	
	Najibabad 3, 4..	
	Kiratpur 3, 5	
	Najibabad 2, 6	
	Najibabad 5, 8	
	Najibabad 7	20
	Kiratpur 6	
Nagina	.. Nagina 2, 3, 4 (Non-Alluvial) ..	30
	Afzalgarh Circle 4(6)	
	Nagina Circle 1	26
	Budhapur Circles 1 and 2	
	4 (Non-Alluvial)	
	Afzalgarh 1, 2, 3, 5	
	Badhapura 3(*a*), (*b*), (*c*)	
	Afzalgarh Circle 4(*a*)	
	Pargana Nagina 4 (Alluvial) ..	16
	Badhapura 4 (Alluvial)	

BUDAUN DISTRICT

Tahsil	Settlement Circles	Standard transfer multiple
Budaun ..	1st Dumat	24
	2nd Dumat	
	Ujhani, 1st Dumat	
	Ujhani, 2nd Dumat	
	Alluvial	
	Bankati	22
	Khadir	
	Bhur	19
Sahaswan ..	Dumat	18
	1st Khadir	
	Bela	
	Bhur	17
	2nd Khadir	
	Alluvial	
Bisauli ..	Dumat	20
	Salaisi Dumat	
	1st Dumat	
	2nd Dumat	
Dataganj ..	Dumat	22
	Bankati	
	Alluvial	
	Matiyar	19
	Bankati	
	Bhur	
	Khadir	
	Alluvial	
Gunnaur ..	Khadir Bankati	20
	Bela	
	1st Khadir	
	Khadir Dumat	
	Khadir Bhur	
	Alluvial	
	2nd Khadir	
	Bhur	
	Alluvial	
	MORADABAD DISTRICT	
	Moradabad, III, IV, VI	24
	Bilari, III, VI, VII, IV	
	Sambhal, III, V, IV	
	Amroha, X, II, VI, V, XI, III ..	
	Hasanpur, VIII, IX	
	Thakurdwara, I, II, III, V ..	

MORADABAD DISTRICT—(*concld.*)

Tahsil	Settlement Circles	Standard transfer multiple
	Moradabad	21
	Bilari	
	Sambhal, VI, VII	
	Amroha, IX, VIII	
	Hasanpur, VI, II, III, IV, V, VII ..	
	Thakurdwara, IV-A, IV-B, VI ..	
	Moradabad, VIII, I, V, VII, II ..	20
	Bilari, I, II, V	
	Sambhal, VIII, I, IX, II	
	Amroha, XII, I, IV, VII	
	Hasanpur, I	
	Thakurdwara	

SHAHJAHANPUR DISTRICT

Shahjahanpur ..	Rasgawan and Remainder ..	25
	Khanant Valley, Sukheta Valley, Simari and Remainder.	24
	Garai North, Garai South and Remainder.	23
Powayan ..	Baragaon, Powayan, Nahil Central, Gola and Abad North.	22
	Abad South, Nahil Khanant, Golarya, Nahil Jungle and Banda.	
	Viran Jukhna, Viran forest, Bhainsi Sanwat, Gomti and Sanwat Khanant.	21
Jalalabad ..	Bhur Jalalabad, Bhur Chauki, Remainder and Allahganj.	25
	Tarai Umarsandh and Remainder Tarai.	23
	Bankatiganj Khadar and Remainder Bankati.	21
Tilhar ..	Tarai—Tilhar	21
	Garra—Jalalpur	
	Domat—Nirgohi	
	Bahgul—Jalalpur	20
	Niranpur Katra	
	Kaimnau—Nirgohi	
	Ramganga—Khera Bajhera ..	
	Bhur—Tilhar	
	Bahgul—Khera Bajhera	
	Bhur— Ditto	

PILIBHIT DISTRICT

Tahsil	Settlement Circles	Standard transfer multiple
Pilibhit	.. Circles Pilibhit Suburban I and Jahanabad I.	21
	Circles Pilibhit II and Jahanabad II.	20
	Pilibhit III and IV and Jahanabad III and IV.	19
Bisalpur	.. Circles I and III	21
	Circle II	20
Puranpur	.. Roster Circles IV, VI, VII ..	20
	Roster Circles II and III	19
	Roster Circles, I, V, VIII and IX ..	

ALLAHABAD DIVISION

FARRUKHABAD DISTRICT

Farrukhabad	.. Bangar Ordinary, I and II class ..	31
	Mixed Kali Nadi, I and II class ..	
	Bangar Suburban, I and II class ..	
Kaimganj	.. Bangar Suburban Circle, I and II class.	
	Mixed Suburban Circle, I and II class.	
	Bangar Ordinary, I and II class ..	
Kanauj	.. Mixed Esan Nadi, I and II class ..	
	Bangar, I and II class	
	Mixed Kali Nadi Circle	
Chhibramau	.. Suburban Circle	
	Ordinary Bangar Circle I	
Farrukhabad	.. Tarai Middle Suburban, I and II class	25
	Tarai Middle Ordinary, I and II class.	
	Mixed Ganges Circle Papar ..	
	Ordinary Upland, I and II class ..	
Kaimganj	.. Tarai Middle Suburban Circle ..	
	Tarai Middle Ordinary Circle ..	
	Mixed Ordinary Circle, I and II class	
Kanauj	.. Kachcha, I and II class	
	Mixed Ganges Circle	
Chhibramau	.. Ordinary Bangar Circle II ..	
	Mixed Kali Nadi Circle, I and II ..	
	Mixed Esan Nadi Circle, I and II ..	
Farrukhabad	.. Alluvial Ganges, I and II class ..	16
	Alluvial Ramganga, I and II class ..	
Kaimganj	.. Alluvial, I and II class	
Kanauj	.. Alluvial, I and II class	

ETAWAH DISTRICT

Tahsil	Settlement Circles	Standard transfer multiple
Etawah	Pachar Circle	27
	Ghar Circle (Sirsa Doab)	
	Patti Kamait	24
Bharthana	Pachar Circle	28
	Ghar Circle	25
	Chakarnagar Circle	23
	Sahson Circle	22
Bidhauna	Circle I	27
	Circle II	25
Auraiya	North I and II and South I and II.	28
	Ilaqas Bhareh and Sandaus	
	Kharka Circle	23

CAWNPORE DISTRICT

Akbarpur	Red Loam I	29
	Usar Dumat I	
	Rind I	25
	Rind II	
	Dumat I	
	Red Loam II	
	Usar Dumat II	
	Sengur	24
	Dumat II	
Bilhaur	Usar Dumat I, Sheorajpur	26
	Bangar Dumat I	
	Swarup I	
	Ganges Esan Doab	
	Red Loam I	
	Stiff Dumat I	
	Usar Dumat I, Bilhaur	25
	Usar Dumat II	
	Bangar Dumat II	
	Swarup II	
	Red Loam II	
	Stiff Dumat I	
	Esan Sand	
	Ganges Cliff	
Bhognipur	Dumat Wet I	30
	Sengur	
	Dumat Dry	
	Dumat Wet II	
	Jumna	25

CAWNPORE DISTRICT—(*concld.*)

Tahsil	Settlement Circles	Standard transfer multiple
Cawnpore	Suburban	33
	Urban	
	Ganges Cliff	31
	Dumat North I	
	Dumat South	
	Dumat North II	
	Red Soil I	
	Alluvial	
	Ganges Pando Doab	
	Southern	
	Red Soil II	30
Derapur	Dumat I	35
	Dumat II	30
	Rind I	
	Rind II	
	Usar Dumat I	
	Usar Dumat II	
	Dumat Wet I	
	Sengur North	
	Sengur South	26
	Dumat Dry	
	Dumat Wet II	
Ghatampur	South I	30
	South II	
	Ganges Pando Doab II	
	Dumat Wet I	
	Dumat Wet II	29
	Dumat Dry	
	Nou	
	Jumna	
	Alluvial	

FATEHPUR DISTRICT

Fatehpur	Fatehpur Circle no. I	18
	Fatehpur Circle no. II	
	Fatehpur Circle no. IV (Non-Alluvial)	
	Fatehpur Circle no. IV (Alluvial)	
	Haswa Circle no. I	
	Muttour Circle no. II	
	Muttour Circle no. II (Alluvial)	

FATEHPUR DISTRICT—(*concld.*)

Tahsil	Settlement Circles	Standard transfer multiple
Fatehpur—(*concld.*)	Fatehpur Circle no. III	
	Haswa Circle no. II	
	Haswa Circle no. III (Alluvial)	
	Ghazipur Circle no. I	14
	Ghazipur Circle no. II	
	Ghazipur Circle no. III (Alluvial)	
	Muttour Circle no. I	
	Ayah-Shah	
Khajuha	Kora Circle no. I	
	Kora Circle no. II (Alluvial)	
	Bindki Circle no. I	
	Bindki Circle no. II	27
	Tappa-Jar Circle no. I	
	Tappa-Jar Circle no. I (Alluvial)	
	Kotiya-Gunir Circle no. I	
	Kora Circle no. II	20
	Tappa-Jar Circle no. II	
	Kotiya-Gunir (Alluvial)	
	Bindki Alluvial	15
	Kora Circle no. III	
Khaga	Hathgaon Circle no. I	32
	Hathgaon Circle no. II	
	Kotila Circle no. I	
	Kotila Circle, Alluvial	28
	Dhata Circle no. I	
	Dhata Circle no. II	
	Ekdala Circle no. I	
	Hathgaon Circle no. III	
	Ekdala Circle no. II	24
	Ekdala Circle no. III	
	ALLAHABAD DISTRICT	
Chhail	Circles IV, VI and VII	33
	Circles I, II and V	30
	Circle III, VIII and IX	26
Sirathu	Circle I, pargana ~~Kaya~~ Kara	29
	Circle II, pargana ~~Kaya~~ Kara	26
Manjhanpur	Circle I, pargana Karari	32
	Circle I, pargana Atherban	
	Circle II, pargana Karari	30
	Circle II, pargana Atherban	
	Circle III, pargana Karari	27
	Circle III, pargana Atherban	

ALLAHABAD DISTRICT—(*contd.*)

Tahsil	Settlement Circles	Standard transfer multiple
Phulpur	.. Circle I, pargana Sikandra ..	33
	Circle II, pargana Jhusi	
	Circle III, pargana Jhusi	
	Circle II, pargana Sikandra ..	32
	Circle I, pargana Jhusi	
	Circle IV, pargana Jhusi	
Soraon	.. Circle I, pargana Mirzapur Chauhari	31
	Circle II, pargana Soraon	
	Circle III, pargana Soraon ..	
	Circle I, pargana Soraon	28
	Circle III, pargana Nawabganj ..	
	Circle I, pargana Nawabganj ..	25
	Circle II, pargana Nawabganj ..	
Handia	.. Circle III, pargana Kewai ..	29
	Circle IV, pargana Kewai	
	Circle III, pargana Mah	
	Circle II, pargana Kewai	27
	Circle IV, pargana Mah	
	Circle VI, pargana Kewai	
	Circle II, pargana Mah	
	Circle I, pargana Kewai	26
	Circle V, pargana Kewai	
	Circle I, pargana Mah	
Karchhana	.. Loam, pargana Arail	29
	River I, pargana Bara	
	River I, pargana Arail	
	River II, pargana Bara	
	Rice I, pargana Arail	24
	Kachhar	
	Loam I, pargana Bara	
	Mar I, pargana Bara	
	Loam II, pargana Arail	
	River II, pargana Arail	
	Rice II, pargana Arail	
	Highlying I, pargana Bara ..	
	Loam II, pargana Bara	
	Mar II, pargana Bara	
	Highlying II, pargana Bara ..	
Meja	.. Loam I	32
	River I	
	Kachhar	

ALLAHABAD DISTRICT—(*concld.*)

Tahsil	Settlement Circles	Standard transfer multiple
Meja—(*concld.*)	Loam II	29
	River II	
	Matyar	
	Pal I	
	Loam III	25
	River III	
	Pal II	
	Lapermar	
	Laper River	

JHANSI DIVISION

JHANSI DISTRICT

	Circles 1 to 9	18
	Lalitpur Sub-division, Circles 20 to 26	
	Jhansi Proper, Circles 10 to 19 ..	16
	Lalitpur Sub-division, Circles 27 to 37	

JALAUN DISTRICT

All tahsils ..	All Circles	16

HAMIRPUR DISTRICT

All tahsils ..	All Circles	16

BANDA DISTRICT

All tahsils ..	All Circles	16

BENARES DIVISION

BENARES DISTRICT

Benares ..	City Circles nos. I, II, III, IV(*a*), IV(*b*), and V of Pargana Dehat Amanat.	48
Benares	Dhankhar Circles, I, II and III of Kaswar Raja, Circle I of Katehar East, Circles I, II, III, V and VI of Kole Aslah East, Circle I of Sultanpur, Circle I of Katehar West, Circles I and III of Sheopur, Circles II and IV of Athagaon, Circles II and IV of Kaswar Sarkari, Circles I(*a*), I(*b*), and II of Pandrah, Circles I, II, III, IV, V and VI of Kole Aslah.	34
Chandauli ..	Circle II of Pargana Mahaich, II of Pargana Dhus, I, II and IV of Pargana Budhwal, III of Pargana Mahuani, III, IV, V and VI of Pargana Majhwar and II of Pargana Narwan.	33

BENARES DISTRICT—(*concld.*)

Tahsil	Settlement Circles	Standard transfer multiple
Benares ..	Circles IV, V and VI of Pargana Kaswar Raja, Circle III of Pargana Jalhupur, Circle II of Pargana Katehar East, Circle II of Pargana Sultanipur, Circles II and III of Katehar West, Circles II, IV and V of Pargana Sheopur, Circles I and III of Athagaon, Circles I, III, V and VI of Kaswar Sarkari, Circle III of Pandrah.	31
Chandauli ..	Circle II of Pargana Ralhupur, II and IV of Pargana Mahuari, III of Pargana Barah, and VII of Pargana Majhwar.	30
Chandauli ..	Circle I of Pargana Mahaich, I and III of Pargana Ralhupur, I of Pargana Dhus, I and V of Pargana Mahuari, I, II and III of Pargana Mawai, I and II of Pargana Majhwar, I of Pargana Narwan, I and II of Pargana Barah and III of Pargana Budhwal.	28
Benares ..	Circles IV and V of Katehar East, Circles I, II, IV, V, VI of Jalhupur, and Circles IV and V of Katehar West.	24

MIRZAPUR DISTRICT

Mirzapur ..	Kon	33
Mirzapur and Chunar.	Chaurasi Suburban	
	Haveli	
	Chunar	
Mirzapur ..	Chaurasi Pahari	26
Robertsganj ..	Barhar	19
Mirzapur ..	Upraudh	
Robertsganj ..	Agori	

JAUNPUR DISTRICT

Jaunpur ..	Pargana Haveli—City Circle I, Pargana Haveli—Loam Cicle II, Pargana Saremu—Loam Circle I, Pargana Rari—Loam Circle I, Pargana Qariat Dost—Loam Circle I and Pargana Khapraha—Loam Circle I.	34

JAUNPUR DISTRICT—(*contd.*)

Tahsil	Settlement Circles	Standard transfer multiple
Jaunpur—(*concld.*)	Pargana Haveli—Gomti Circle III, Pargana Haveli—Sai Circle III, Pargana Saremu—Gomti Circle II, Pargana Rari—Gomti Circle II, Pargana Rari—Sai Circle III, Pargana Qariat Dost—Sai Circle II, Pargana Khapraha—Sai Circle II and the whole of Pargana Zafarabad.	30
	Pargana Haveli Usar (Rice) Circle V and Pargana Saremu Usar (Rice) Circle III.	24
Mariahun ..	Pargana Mariahun—Loam Circle I, Pargana Barsathi—Loam Circle I, Pargana Gopalapore—Loam Circle I.	34
	Pargana Mariahun—Rice Circle II, Pargana Barsathi—Rice Circle II.	28
	Pargana Mariahun—Sai Circle III, Pargana, Mariahun—Basuhi Circle IV, Pargana Mariahun—Barna Circle V, Pargana Barsathi—Basuhi Circle III, Pargana Barsathi—Barna Circle IV and Pargana Gopalapore—Basuhi Circle II.	18
Kerakat ..	Pargana Chandwak—Loam Circle I, Pargana Guzara—Loam Circle I, Pargana Bealsi—Loam Circle I, Pargana Dariyapar—Loam Circle I, and Pargana Pisara—Loam Circle I.	34
	Pargana Chandwak—Gomti Circle II, Pargana Guzara—Gomti Circle II, Pargana Bealsi—Sai Circle II, Pargana Daryapar—Gomti Circle II and Pargana Pisara—Gomti Circle II.	30
	Pargana Chandwak Usar (Rice) Circle III, Pargana Bayalri Usar (Rice) Circle III, Pargana Daryapar Usar (Rice) Circle III, Pargana Pisara Usar (Rice) Circle III.	28

JAUNPUR DISTRICT—(*concld.*)

Tahsil	Settlement Circles	Standard transfer multiple
Shahganj ..	Pargana Ungali—Loam Circle I and the whole of Pargana Rari, Pargana Chanda—Loam Circle I, Qariat Mendha—Loam Circle I.	
	Pargana Ungali—Gomti Circle II, Pargana Chanda—Gomti Circle II, Pargana Qariat Mendha—Gomti Circle II, Pargana Ungali—Usar (Rice) Circle III.	34
Machhlishahr	Pargana Ghiswa—Loam Circle I, Pargana Garwara—Loam Circle I, Pargana Mongara—Loam Circle I.	
	Pargana Ghiswa—Sai Circle II, and Pargana Garwara—Sai Circle II.	34
	Pargana Ghiswa Usar (Rice) Circle III, Pargana Garwara Usar (Rice) Circle III and Pargana Mungara Usar (Rice) Circle II.	

GHAZIPUR DISTRICT

Ghazipur ..	Karauda Alluvial Ganges	
Sayedpur ..	Khanpur Matiyar (Usar)	
	Khanpur Gomti	
Mohammadabad	Alluvial Karil, Mohammadabad ..	32
	Alluvial Tarai, Mohammadabad ..	
	Loam, Zahurabad	
	Loam (Bhainsahi) Pachotar ..	
Ghazipur ..	Loam City, Ghazipur	
	Alluvial Ganges, Ghazipur.. ..	
	Loam, Ghazipur	
	Alluvial Ganges, Zamania ..	
Sayedpur ..	Saidpur 1st Loam	
	Shadipur 1st Loam	
	Saidpur Ganges 3rd	
	Bahariabad 1st Loam	30
	Saidpur 2nd Loam	
	Shadiabad 3rd Matiyar	
	Shadiabad 2nd Loam	
	Khanpur 1st Loam	
	Bahariabad Matiyar (Usar) ..	
Mohammadabad	Loam, Dehma and Mohammadabad ..	
	Loam Mangai, Pachotar	

GHAZIPUR DISTRICT—(*concld.*)

Tahsil	Settlement Circles	Standard transfer multiple
Ghazipur ..	Ghazipur Rice	28
	Zamania Superior Karil	
	Karaunda Loam Ganges	
	Zamania Rice	
	Zamania Inferior Karil	
Sayedpur ..	Saidpur Matiyar (Usar)	
Muhammadabad	Dhankhar Clay, Pachotar ..	
	Dhankhar Jhil, Zahurabad ..	
	Loam, Sarju, Dehma, Zahurabad ..	
	Dhankhar Usar, Zahurabad ..	

BALLIA DISTRICT

Ballia ..	Circles I, II and IV	42
Rasra ..	Sarju Circle B..	
	Rasra Circle A..	
Ballia ..	Circle III	31
Rasra ..	Kopachit Circles A and B ..	
	Sikanderpur and Bhadaon A and B ..	
Bansdih ..	Circles II, III and IV	
Rasra	Sikanderpur and Bhadaon—D (Circles C, D and E).	
Rasra ..	Sikanderpur and Bhadaon—F ..	23
Ballia ..	Circle V	
Bansdih ..	Circle I	

GORAKHPUR DIVISION

GORAKHPUR DISTRICT

Sadar ..	All the circles in Pargana Bhawapar, except Circle VII Alluvial.	70
	All the circles in Pargana Hasanpur Magher, except Circles IV and V Alluvial.	
Bansgaon ..	All the circles in Pargana Dhuriapar, except Circles V, VI, IV Alluvial, VI Alluvial, VII Alluvial, VII Non-alluvial and IV Non-alluvial.	
	All the circles in Pargana Chullupar, except Circles I Alluvial, II Alluvial IV.	
	All the circles in Pargana Unwal ..	
	All the circles in Pargana Bhawapar, except Circles IX Alluvial and X Alluvial.	
Hata ..	Silhat-Bangar Southern	
Padrauna ..	Circles VIII and IX	
Deoria ..	Circle Bangar	

GORAKHPUR DISTRICT—(*concld.*)

Tahsil	Settlement Circles	Standard transfer multiple
Sadar ..	Circle VII Alluvial, Pargana Bhawapar	65
	Circles IV and V Alluvial in Pargana Hasanpur Magher.	
	All the circles in Pargana Haveli, except Circles I, II, III, X Alluvial and XI Alluvial.	
Mahrajganj ..	All the circles in Pargana Haveli West, except Circles X, XI and XIV.	
	Circles I, IV, V and VI in Pargana Haveli East.	
Bansgaon ..	Circles V, VI, IV Alluvial, VI Alluvial, VII Alluvial, VII Non-alluvial, IV Non-alluvial in Pargana Dhuriapar.	
	Circles I Alluvial, II Alluvial, IV in Pargana Chillupar.	
	Circles IX Alluvial, X Alluvial in Pargana Bhawapar.	
Hata ..	Haveli, Silhat-Bangar Northern and Shahjahanpur.	
Padrauna ..	Circles IV, V, VI and VII	
Deoria ..	Circle Bhat	
Sadar ..	Circles I, II, III, X Alluvial and XI Alluvial in Pargana Haveli.	60
Mahrajganj ..	Circles X, XI and XIV in Pargana Haveli West.	
	All the circles in Pargana Haveli East, except Circles I, IV, V and VI.	
	All the circles in Pargana Tilpur and Binayakpur.	
Hata ..	Silhat-Kachhar and Alluvial ..	
Padrauna ..	Alluvial Mahals and all the circles, except IV, V, VI, VII, VIII and IX.	
Deoria ..	All the alluvial circles	

BASTI DISTRICT

Basti ..	Circles I—XII	65
Khalilabad ..	Circles II, III, IV and VII ..	70
	Circles I, V, VI and VIII	65
Domariaganj ..	Circles I—IX	60
Bansi ..	Circles I—IX	65
Harraiya ..	Circles III, IV, VII and VIII ..	65
	Circles I, II, V and VI	60

AZAMGARH DISTRICT

Tahsil	Settlement Circles	Standard transfer multiple
Nizamabad ..	Circle Suburban	70
	Bangar Circle	60
	Kachhar Circle	
Sagri ..	Circle Bangar	70
	Circle Kachhar	65
	Circle Alluvial	
Phulpur ..	Northern Circle	70
	Southern Circle	
Lalganj ..	Bangar Circle	70
	Ordinary Circle	
Muhammadabad	Bangar Circle	60
	Ordinary Circle	
Ghosi ..	Bangar Circle	55
	Kachhar Circle	
	Mixed Circle	

KUMAUN DIVISION

NAINI TAL DISTRICT

Kashipur ..	Jaspur Bangar A	38
	Phika Poli	
	Kosi Khadar	
	Jaspur Bangar B	26
	Kashipur Bangar	
	Dhela Tumaria	
	Jungle	20
	Tarai	
	The *bandobasti* villages of the Tarai and Bhabar Government Estates.	

LUCKNOW DIVISION

LUCKNOW DISTRICT

Lucknow ..	City Circle I	28
	Matiyar Circle II of Pargana Lucknow	
	Inferior outer Circle III	
	Superior outer Circle IV	
	Matiyar Circle II of Parganas Kakori and Bijnaur.	
	Dumat I	26
	Gomti III	
	Sai Circle I	
	Bhur Circle V	
	Tarai Circle VI	

LUCKNOW DISTRICT—(*concld.*)

Tahsil	Settlement Circles	Standard transfer multiple
Malihabad ..	Usar Circle of Pargana Malihabad ..	27
	Usar Circle IV of Pargana Mahona ..	
	Dumat Circle of Pargana Malihabad ..	24
	Dumat Circle III of Pargana Mahona	
	Beta Circle	
	Bhur Circle	
	Jhil Circle V	
Mohanlalganj	Matiyar Circle II of parganas Mohanlalganj and Nigohan.	32
	Dumat Circle I	
	Sai Circle I	
	Bhur Circle II	

UNAO DISTRICT

Purwa ..	Pargana Purwa I, II, III and IV ..	31
	Pargana Maurawan, Main Circle ..	
	Pargana Asoha I and	
	Pargana Baiswara I and II ..	
	Pargana Maurawan, River Circle ..	29
	Pargana Asoha II	
	Pargana Baiswara III	
	Pargana Asoha III	26
	Pargana Baiswara IV	
Unao ..	First Class I and II	26
	Intermediate Class IV	24
	Third class III, V, VI and VIII ..	22
Hasanganj ..	Superior Class IV	32
	Auras and Mohan	
	First Class parganas Jhalotar, Ajgain, Gorinda, Parsandan I, II and III, Parganas Mohan and Auras I and Pargana Aswan-Rasulabad.	26
	Parganas Jhalotar, Ajgain and Gorinda	24
	Parsanda IV	
	Pargana Auras V	
	Pargana Mohan II	
	Pargana Aswan-Rasulabad ..	

UNAO DISTRICT—(*concld.*)

Tahsil	Settlement Circles	Standard transfer multiple
Safipur ..	First Class Pargana Safipur, I and II ..	27
	Parganas Bangarmau and Fatehpur Chaurasi, I and II.	
	Intermediate	23
	Pargana Safipur, III and IV ..	
	Third Class Parganas	20
	Safipur V	
	Pargana Bangarmau and Fatehpur Chaurasi III, IV and V, Tahsil Safipur Alluvial VI.	

SITAPUR DISTRICT

Sidhauli ..	Superior Dumat	29
	Inferior ,, ...	
	Half Tarai	
	Eastern High Lying	
	Tarai	28
	Chauka	
	Jhil	27
	Gomti Sarain	
	Western High Lying	
Biswan ..	Uperhar, nos. I, II and III.. ..	28
	Tarai no. I	
	Tarai no. II	26
	High Lying	
	Low Lying West no. I	
	Do. East no. I	
	Eastern	25
	Ganjar	
	Low Lying West no. II	
	Do. East no. II	
Sitapur ..	Northern Dumat	30
	Do. Sarain	
	Gond Basin	
	Central Gond	29
	West Perai	
	North Western Jhil	
	Perai Nadi	
	Ramkot Jhil	28
	Sarain Gond Saddle	
	Southern Sarain	
	Sarain Perai Plateau	
	Sarain Gond Plateau	
	Uperhar Circle	
	Tarai Circle	

SITAPUR DISTRICT—(*concld.*)

Tahsil	Settlement Circles	Standard transfer multiple
Misrikh ..	Inferior Dumat Circle	29
	Kathna Perai Circle	
	Perai Dumat	
	Eastern Kathna	
	Southern Light Circle	28
	Chandra Light Circle	
	Southern Gomti Bhur	
	Gomti Kathna Bhur	
	Superior Dumat Circle	26
	Machhrehta Korauna Dumat ..	
	Lower Beta Circle	
	Machhrehta Stiff Circle	
	Usar Jhil Circle	
	Sarain Circle	

RAE BARELI DISTRICT

Salon ..	Salon, Circles I and II	35
	Parshadipur North	
	Rokha	
Dalmau ..	Dalmau Circle	33
	Khiron Circle	
	Sareni Circle	
Maharajganj ..	Bachhrawan, Circle I	31
	Hardoi Circle	
	Inhauna, Circles I and II ..	
	Bachhrawan, Circle II	
	Semrauta Circle	
	Kumhrawan Circle	
	Mohanganj, Circles I and II ..	
Salon ..	Salon, Circles III and IV	29
	Parshadipur South	
Rae Bareli ..	Rae Bareli, Circle I	26
	Rae Bareli, Circles II and III ..	20

HARDOI DISTRICT

Bilgram ..	Town Circle	26
	Superior Domat	
	Jhil	
	Superior Ridge	
	Light Domat	

HARDOI DISTRICT—(*contd.*)

Tahsil	Settlement Circles	Standard transfer multiple
Bilgram—(*concld.*)	Sai	21
	Inferior Ridge	
	Stiff Tarai	
	Light Tarai	
	Superior Light Domat	
	Inferior Light Domat	
	Ridge	
	Garra Tarai	
	Stiff Tarai	
	Ram Ganga Tarai	
	Ganga Tarai	
	Stiff Circle	
	Light Circle	
	Saindha Circle	
	Kachar	
Sandila ..	Superior Domat	25
	Usar Circle	
	Light Loam	
	Inferior Domat	
	Sai Circle	
Shahabad ..	Gomti Bhoor Circle	23
	Superior Domat	
	Superior Light Domat	
	Superior Garra Tarai	
	Gomti Bhur	
	Eastern Tarai	
	Ridge Circle	
	Inferior Light Domat	
	Jhil Circle	
	Sai Basin	
	Western Garra Tarai	
	Saindha	
	Baukab Bhur	
	Garra R. Ram Ganga Bhur ..	
	Khadar Bangar	
	Inferior Garra Tarai	
	Domat Matyar	
Hardoi ..	Town Circle	23 32
	Superior Domat	
	Bhansta Circle	
	Superior Jhil Usar	
	Superior Light Domat	
	Inferior Domat	
	Sai Circle	
	Inferior Jhil Usar	

HARDOI DISTRICT—(*concld.*)

Tahsil	Settlement Circles	Standard transfer multiple
Hardoi—*concld.*	Inferior Light Domat	23
	Sai Basin	
	Alluvial	
	Superior Tarai	
	Gomti Bhur	
	Garra Bhur	
	Ridge	
	Swamp	
	Inferior Tarai	
	Garra Ram Ganga Bhur	

KHERI DISTRICT

Lakhimpur ..	Parganas Kheri and Paila, Circles nos. I and II.	28
	O. K. Tracts nos. I and II	
	Aliganj South, Circle I	
	Sansarpur, Circle I	
Muhamdi ..	Pargana Pasgawan, Circle I ..	
	,, Kasta, Circle I	
	,, Haidrabad, Circle I ..	
	,, Muhamdi, Circle I ..	
	,, Aurangabad, Circle I ..	
	,, Pasgawan, Circle II ..	
	,, Kasta, Circle II	
	,, Muhamdi, Circle II ..	
	,, Aurangabad, Circle II ..	
	,, Haidrabad, Circle II ..	
Lakhimpur ..	Pargana Srinagar, O. S. Tract no. I	26
	,, Bhur, Aliganj South, Circle II	
	,, Bhur, Aliganj North, Circle I	
	,, Paila, Circle III ..	
	,, Paila, Grant Circle ..	
	,, Srinagar, O. S. Tract II ..	
	,, Bhur, Srinagar Circle ..	
	,, Kukra, Sansarpur, Circle II ..	
	,, Kukra, Kukra Circle I ..	
	,, Bhur, Aliganj no. II ..	
	,, Srinagar, Circle III ..	
	,, Kheri, Circle III ..	
	,, Bhur, Aliganj South, III ..	
	,, Kukra, Kukra Circle II ..	
	,, Kukra, Grant Circle ..	

KHERI DISTRICT—(*concld.*)

Tahsil		Settlement Circles	Standard transfer multiple
Muhamdi	.. Pargana	Haidrabad, Circle III ..	
	,,	Pasgawan, Circle III ..	
	,,	Pasgawan, Grant Circle ..	
	,,	Muhamdi, Circle III ..	
	,,	Aurangabad, Circle III ..	
	,,	Kasta, Circle III ..	
	,,	Haidrabad, Grant Circle ..	
	,,	Atwapiparia, Circle II ..	
	,,	Atwapiparia, Circle I ..	
Nighasan	.. ,,	Firozabad, Central Circle, Class I.	
	,,	Dhaurehra, Central Circle, Class I.	
	,,	Nighasan, Central Circle no. I	26
	,,	Dhaurehra, Central Circle no. II.	
	,,	Firozabad Central Circle no. II	
	,,	Khairigarh, Haveli Class I.	
	,,	Dhaurehra, Chauka and Dahawar Circle.	
	,,	Firozabad, Chauka and Dahawar Circle.	
	,,	Nighasan, Soheli Circle no. I.	
	,,	Khairigarh, Konawat Class I	
	,,	Nighasan, Central Circle no. II	
	,,	Nighasan, Chauka I ..	
Lakhimpur	.. Pargana	Bhur, Circle I Bhur ..	
	,,	Bhur, Circle II Bhur ..	
Muhamdi	.. ,,	Magdapur, Grant Circle ..	
	,,	Magdapur, Bhur Circle ..	
	,,	Aurangabad, Bhur Circle ..	
Nighasan	.. ,,	Firozabad, Gogra Circle ..	
	,,	Dhaurehra, ,, ..	23
	,,	Khairigarh, Konawat Class II	
	,,	Palia, Palia Circle ..	
	,,	Nighasan, Soheli Circle II ..	
	,,	Nighasan, Chauka II ..	
	,,	Khairigarh, Haveli Class II ..	
	,,	Khairigarh, River ..	
	,,	,, Forest ..	

FYZABAD DIVISION

FYZABAD DISTRICT

Tahsil	Settlement Circles	Standard transfer multiple
Fyzabad ..	Mangalsi, I and III	36
	Haveli Oudh, I and III	
	Mangalsi, II, IV and VI	34
	Haveli Oudh, III	
	Amsin, I and III	
	Mangalsi, V	28
	Haveli Oudh, IV	
	Amsin, II (*a*), II (*b*) and IV ..	
	Mangalsi, VII	
	Haveli, Oudh V	
	Amsin, V	
Akbarpur ..	Akbarpur, II and III	55
	Majhaura, II	
	Surhurpur, I and II	
	Birhar, I	
	Akbarpur, I and V	
	Manjhaura, III	
	Surhurpur III	
	Akbarpur IV and VI	
	Manjhaura, I	
Bikapur ..	Khandasa, II	40
	Pachmirath, III and IV	
	Khandasa, I	35
	Pachmirath, I, V and VIII ..	
	Khandasa, III and IV	
	Pachmirath, II, VI and VII ..	
Tanda ..	Tanda, I	33
	Tanda, II, III and IV	
	Birhar, II and III	
	Tanda, V	
	Birhar, IV	

GONDA DISTRICT

Tarabganj ..	Gwarich, I, II	36
	Digsir, I	
	Nawabganj, I	
	Gwarich, III, IV, V	
	Digsir, II, III	
	Mahadewa, I, II, III	
	Nawabganj, II	
	Digsir, IV	
	Mahadewa, IV	
	Nawabganj, III, IV	

GONDA DISTRICT—(*concld.*)

Tahsil	Settlement Circles	Standard transfer multiple
Gonda ..	Paharpur, I	37
	Gonda, IV	
	Paharpur, II, III	
	Gonda, II, III, VI	
	Gonda, I, VI	
Utraula ..	Utraula, I	35
	Budhapair, I	
	Mankapur, I	
	Sadullanagar, I	
	Utraula, II, III	
	Budhapair, II	
	Sadullanagar, II	
	Babhnipair, II	
	Utraula, IV	
	Babhnipair, III	
	Mankapur, II, III	
	Budhapair, III	
	Sadullanagar, III, IV	

BAHRAICH DISTRICT

Kaiserganj ..	Pargana Hisampur, II	40
	,, Hisampur, III to VI ..	
	,, Fakharpur, I	
	,, Fakharpur, III	23
	,, Hisampur, I	
Nanpara ..	Pargana Charda, I	40
	,, Dharamanpur, I	
Bahraich ..	Pargana Bahraich, II	40
	,, Ikauna, III	
	,, Bhinga, I	

SULTANPUR DISTRICT

Sultanpur ..	Circles I, II, and III of both parganas	48
Kadipur ..	Circles I, II and III of both Aldemau and Chanda parganas.	41
Musafirkhana	Dumat circles of all the four parganas	45
	Gomti and Naya circles of all the four parganas.	
	Usar and stiff soil circles of all parganas.	
Amethi ..	Circles I and II of both parganas ..	41
	Circle III of Pargana Amethi ..	

PARTABGARH DISTRICT

Tahsil	Settlement Circles	Standard transfer multiple
Partabgarh ..	Partabgarh, I, II, III and IV ..	36
	Athena, I, II, III and IV ..	
Patti ..	Circles I and IV	35
	Circles II and III	31
Kunda ..	Pargana Manikpur, I, II, III and IV ..	32
	,, Birhar, I, II, III, IV and V ..	
	,, Dhingwas, I, II and III ..	
	,, Rampur, I, II and III ..	

BARA BANKI DISTRICT

Nawabganj ..	Circle I of group A	42
	Circle I of group B	35
	Circle I of group C	30
Fatehpur ..	Circle I	38
	Circles II, III, IV and V ..	35
Ramsanehighat	Circles XIV of group A	39
	Circles I, II, VIII, IX, X, XI and XII of group B.	
	Circles III, IV, V, VI, VII, XIII and XV of group C.	
Haidergarh ..	Sidhaur, I, Subeha, II and Haidergarh, IV.	33
	Haidergarh, I, Sidhaur, II and Subeha III.	
	Subeha, I and Haidergarh, III ..	

RULES

MADE UNDER

The United Provinces Agriculturists' Relief Act, 1934

27

ALLAHABAD:
SUPERINTENDENT, PRINTING AND STATIONERY, UNITED PROVINCES
1935

X9(JJ:(2252)
G 4

GOVERNMENT OF THE UNITED PROVINCES

No. 633-Rev.

REVENUE DEPARTMENT

Dated Naini Tal, August 10, 1935

NOTIFICATION

IN continuation of Revenue Department notification no. 336-Rev., dated April 30, 1935, it is hereby notified for general information that the Local Government have, in exercise of the powers conferred by section 41 of the United Provinces Agriculturists' Relief Act, 1934, made the following rules for the purpose of carrying out the provisions of that Act.

By order,

A. C. TURNER,

Secretary.

Rules made under the United Provinces Agriculturists' Relief Act, 1934

(The marginal references are to the sections of the Act concerned)

1.—If in any proceedings under this Act the creditor alleges that the debtor is not an agriculturist within the meaning of the Act, because the debtor is assessed to more income-tax than that laid down in the second proviso to section 2(2) of the Act, then **Section 2(2), second proviso.**

(*a*) if the debtor admits that he was assessed to income-tax for the last financial year for which assessments have been made by the Income-tax Department, the onus of proving himself to be an agriculturist within the meaning of the Act will be upon the debtor who can discharge that onus by the production of the chalans or receipts for the income-tax to which he was assessed; or

(*b*) if the debtor asserts that he was not assessed to income-tax for the last financial year for which assessments have been made by the Income-tax Department, the court will inquire from the Income-tax Officer of the circle concerned whether the debtor was assessed to any income-tax at all in that financial year. If the reply is to the effect that some income-tax was assessed, then the onus of proving that the amount was not in excess of that laid down in the second proviso to section 2(2) of the Act lies on the debtor who can discharge that onus by the production of the chalans or receipts for the income-tax to which he was assessed.

2.—An application for redemption presented under section 12 of the Act shall be in the following form and shall contain the particulars specified therein.: **Section 12.**

IN THE COURT OF THE SUBORDINATE JUDGE / MUNSIF / COLLECTOR OF ——————

——————

——————*applicant,*

versus

——————

——————*opposite part*

Application for redemption of mortgage under section 12 of the United Provinces Agriculturists' Relief Act, 1934.

RESPECTFULLY SHEWETH—

1. That the applicant is the mortgagor / representative of the mortgagor of the property sought to be redeemed.

2. That the following are the particulars of the mortgage :

(*a*) Date——————

(*b*) Name of the mortgagor——————

Name of the mortgagee——————

(*c*) Sum secured Rs.——————

(*d*) Rate of interest——————

(*e*) Property subject to the mortgage——————

(*f*) Condition of redemption——————

(*g*) Amount now due under the mortgage,

(i) by way of principal Rs.

(ii) interest Rs.

Total, Rs. ..

(*h*) Date on which the principal money became due——————

3. (If the applicant is the mortgagor's successor in title, state facts showing derivation of title.)

4. (If the opposite party is the mortgagee's successor in title, state facts showing derivation of title.)

5. That the applicant is an agriculturist as (state facts showing how the applicant comes within the definition of "Agriculturist").

6. That the mortgagor was at the time of mortgage an agriculturist as (state facts showing how the mortgagee came within the definition of "Agriculturist").

7. That the applicant deposits the said sum of Rupees—————— in the credit of the opposite party.

The applicant, therefore, prays that the said mortgage be redeemed (and possession of the mortgaged property be re-delivered to him).

Verification

——————

(*Signature of applicant.*)

3.—The powers of a Collector under Chapter III of the Act are under section 22(1) of the Act hereby conferred on all Assistant Collectors of the first class who are in charge of sub-divisions or who have exercised powers of the first class for more than five years. Section 22.

4.—(1) Every creditor shall regularly record and maintain a correct account for each agriculturist debtor of all transactions relating to each loan advanced to that debtor in one or other of the following forms A, B or C : Section 32(1)(a).

Provided that where there is a current account it shall be sufficient for the creditor to keep one account of all transactions relating thereto.

In the term " current account " in this proviso, will be included in the case of banks all accounts, such as overdrafts, cash credits, pronote accounts, etc. which are maintained in the form of current accounts.

(2) As soon as possible after the date on which the Act comes into force the creditor shall open an account in one or other of the prescribed forms A, B or C for each existing loan, whether taken before or after the Act came into force with a statement showing the balance or amount of principal and interest outstanding against the debtor at the date on which the account is opened.

FORM A

Loan account of——————, *son of*——————, *caste*——————, *residence*——————

Date as at which account is made up——————

Serial number of loan	Date of advancing loan	Principal or balance of principal if brought over from previous year		In the case of unsecured loans, the date by which repayment must be made to earn the benefit of section 29	Rate of interest	Date of repayment	Payment credited towards		Remarks
		Particulars of loan, whether cash or in kind, secured or unsecured. If in kind, specify quantity	Amount of cash or value of loan in kind, where payable in cash				Principal	Interest	
1	2	3	4	5	6	7	8	9	10
						Total repayment towards the loan during the year.			
						Balance, if any, at the end of the year.			

NOTE—If the loan was taken in kind and is being repaid in kind, the entries in columns 8 and 9 will be in kind.

If the loan was taken in cash and is being repaid in part or altogether in kind, the entries in columns 8 and 9 will be the cash equivalents of the payments in kind, and the details of the payments in kind will be shown in column 10.

FORM B

Bahi Khata

Loan account of———————, son of———————,

caste———————, residence———————

Date as at which account is made up———————

Cr. Dr.

(15)———————(20)———————

Payment made by Ram Adhin

on———————

Principal. Interest.

Ram Adhin Pandey is given a loan

on———————

Rate of interest, if repaid { by——— after———

Balance, if any, at the end of the year. } Principal Interest.

(15) ———————

Ram Adhin Pandey is given a loan

on———————

Rate of interest, if repaid. { by——— after———

FORM C

(Suitable for banks)

Name of debtor——— *Resident of*———

Date as at which account is made up——— *District*———

Date	To or By	Particulars	Rate of interest	Dr. Amount			Cr. Amount			Dr. or Cr.	Balance			No. of days	Decimals
1	2	3	4	5			6			7	8			9	10
				Rs.	a.	p.	Rs.	a.	p.		Rs.	a.	p.		
1935		Amount advanced on the mortgage-deed dated.....for Rs..... at.....per cent. to be repaid on or before.....by equal half-yearly instalments of Rs.....on..... and.....each year commencing from..... Interest is to be paid in addition to the instalments on .....and.....in each year.													

5.—The creditor shall not calculate or enter a rate of interest in excess of that admissible under the Agriculturists' Relief Act. Section 32(1)

6.—Interest on an advance should be worked out up to the date of each repayment towards liquidation of such advance; and, where an advance or any part of it is outstanding at the close of the year, interest should be calculated on the balance of the principal from the date of the last instalment of repayment, if any, to the end of the year : Section 32(1)

Provided that in the case of banks the requirements of this rule will be met by their present practice of the entry of decimals in the account on each day that a transaction takes place, and the calculation of interest at periodic intervals on the basis of those decimals.

7.—With reference to section 29 of the Act, where a part payment is made on an unsecured loan taken after the date on which the Act came into force, interest should be calculated at the unsecured rate. The account should be adjusted and interest re-calculated at the secured rate if final payment is made within the specified time. Section 29.

8.—(1) The account of every loan maintained under rule 4 shall be made up annually and a balance shall be struck on one or other of the following dates : Section 32(1)(b).

(i) the Dasehra festival;

(ii) the Diwali festival;

(iii) September 30;

(iv) December 31; or

(v) March 31.

(2) The creditor shall record in each account the date selected by him for the purpose of sub-rule (1), and on the first occurrence of that date after the Act comes into force, or after the loan is taken, as the case may be, and thereafter annually on that date the account shall be made up and a balance struck.

9.—Within one month after the making up of the account under rule 8 the creditor shall supply each agriculturist debtor every year with a full and correct statement of account of any balance or amount outstanding on each separate loan in the following form D, which must include all transactions entered into during the year to which the statement relates : Section 32(1)(b).

Provided that where there is a current account it shall be sufficient for the creditor to furnish particulars of the balance due on the whole amount.

In the case of banks, the requirements of this rule will be met if a full statement of the account has been supplied by means of a pass-book or otherwise from time to time throughout the year, and intimation is given, within one month from the date selected for making up accounts, of the amount of the balance remaining due on that date.

FORM D

Statement of annual account

Loan account of——————, *son of*——————, *caste*——————, *residence*——————

for the year ending on——————

Rate of interest of secured loan——————

Rate of interest of unsecured loan (*a*) if paid by specified date——————

(*b*) if paid after specified date——————

Serial number of loan	Date of loan	Principal amount of loan or balance of principal if brought over from previous year	Amount of interest, if any, brought forward	Payment credited during the year towards		Balance outstanding at the end of the year	
				Principal	Interest	Principal	Interest
1	2	3	4	5	6	7	8
				Total for all loans outstanding against the debtor.			

——————

Signature of creditor or agent.

Section 32(1)(b).

10.—The statement of account shall be furnished to the debtor by registered post, acknowledgment due. The postal registration and acknowledgment charges shall be recoverable by the creditor as though they were a loan advanced in cash to the debtor, and shall be duly entered in the loan account.

Section 32(1)(b).

11.—Where a debtor has agreed in writing to accept the statement of account by personal delivery, it shall not be incumbent on the creditor to send such statement in the manner prescribed by rule 10. In such cases the debtor shall give a written receipt for each statement of account delivered personally to him.

Section 39.

12.—(i) When a scheduled bank makes advances against current accounts, as defined in the proviso to sub-rule (1) to rule 4, the following documents will be deemed to satisfy the requirements of section 39 of the Act :

(1) A letter from the bank to the borrower giving full details of the limit of the accommodation made available to the borrower and the other particulars required by the Act.

(2) The bank's ledgers.

(ii) For the purposes of sub-section (3) of section 39 a copy of the bank's letter to the debtor mentioned in (i) above will suffice.

NOTE—A scheduled bank is a bank included in the second schedule of the Reserve Bank of India Act, 1934.

Section 0(2).

13.—With reference to section 40, sub-section (2) of the Act, the Local Government are pleased to approve the following form of bond in respect of which no copying fee shall be leviable if a bond is executed on such form printed under the authority of the Local Government.

FORM OF BOND

I,————————————————————————————,
son of————————————————————————————,
by caste————————and residing at————————————,
pargana————————————, tahsil————————————,
district————————————.

Having borrowed Rupees————————————————————
(half of which is Rupees————————————————————)
[or, being liable for Rupees————————————————————
(half of which is Rupees————————————————————
on account of————————————————————————)]
from/to————————————————————————————,
son of————————————————————————————,
by caste————————and residing at————————————,
pargana————————————, tahsil————————————,
district————————————, hereby agree as follows :

1. That I shall repay to the said————————————————————
————————————* his heirs, representatives, successors or assigns the principal sum of Rupees————————————————————
on demand (or, on the————————day of————————————————)
and so long as any part of the said principal sum shall remain outstanding I shall pay simple interest at the rate of————————per cent. per annum (or, compound interest at the rate of————————per cent. per annum with yearly rests)

or, that I shall repay to the said————————————————————
————————————* his heirs, representatives, successors or assigns the said sum of Rupees————————————with interest at the rate of————————
per cent. per annum in the following instalments :————————————

2. That if I repay the said sum of Rupees————————————————————
on or before the————————day of————————————the interest stipulated in clause 1 shall be reduced to————————per cent. per annum.

Dated the————————day of————————————————19 .

(Signed)————————————

Witnessed by

(1)————————————————————

(2)————————————————————

Written by

* Name of the creditor.

No. 1

Revenue Department notification no. 48-Rev., dated May 18, 1936.

Corrections and additions to the rules under the United Provinces Agriculturists' Relief Act, 1934, for the quarter ending June 30, 1936.

For clauses (*a*) and (*b*) of rule 1 the following shall be substituted :

" (*a*) If the debtor admits that he was assessed to income-tax either for the last financial year for which assessments have been made by the Income-tax Department or for the year in which the suit was filed or for any of the years in which the loan or loans in suit were advanced the onus of proving that he was not assessed to more income-tax than that laid down in the second proviso of section 2(2) of the Act in any such year shall be upon the debtor, who can discharge that onus by the production of the chalans or receipts for the income-tax to which he was assessed. "

" (*b*) If the debtor asserts that he was not assessed to income-tax either for the last financial year for which assessments have been made by the Income-tax Department or for the year in which the suit was filed or for any year or years in which the loan or loans in suit were granted the court shall inquire from the income-tax officer of the circle concerned whether the debtor was assessed to any income-tax at all in the financial year for which the debtor asserts that he was not so assessed. If the reply is to the effect that some income-tax was assessed in any of those years, then the onus of proving that the amount was not in excess of that laid down in the second proviso to section 2(2) of the Act in that year lies on the debtor who can discharge that onus by the production of the chalans or receipts for the income-tax to which he was assessed. "

RULES

MADE UNDER

The United Provinces Encumbered Estates Act, 1934

ALLAHABAD:
SUPERINTENDENT, PRINTING AND STATIONERY, UNITED PROVINCES
1936

X9(J):(Z252)
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CONTENTS

Chapter		Page
	The application and the determination of the debt to be liquidated	1
II	The preliminary valuation	5
III	Liquidation of private debts	10
IV	Liquidation of public debts	30
V	The collection of the instalments	31
VI	Liquidation by mortgage	36
VII	Miscellaneous..	40
Appendices		
I	The standard transfer multiples	1A
II	The amount of debt, expressed as a multiple of the instalment paid each year, which is liquidated by equated instalments over a given number of years, if the rate of interest is 4½ per cent. per annum	33A
III	Table of compound interest—	
	(1) With yearly rests	35A
	(2) With half-yearly rests	36A

INDEX

Relating the rules to the sections with which they are concerned

SECTION	RULES	PAGES
2(*j*)	Rules 16, 17, 19..	5, 6
2(*k*)	Rules 16, 18, 20..	5–7
2(*l*)	Rule 22	8
2(*m*)	Rule 21	8
4	Rules 1—3	1
5	Rule 4	2
6	Rule 5	2
7	Rules 24, 83—85	10, 40
8	Rules 7, 8	3
9	Rules 9—14	3, 4
11	Rules 11—13	3
13	Rule 5	2
14	Rules 6, 93	2, 41
19	Rules 15, 24	4, 10
21	Rules 55—58	30
22	Rule 24	10
24	Rules 31—33	14
25	Rules 34, 70—79, 81	15, 36–39
26	Rules 16, 21—23, 25—30, 44 ..	5, 8, 9, 10–14, 23
27	Rules 35—40, 45, 52, 53	15–18, 23, 28, 29
28	Rules 41—43, 46, 52, 53	18–22, 23, 28, 29
29	Rules 53, 59—62	29, 31
30	Rules 45, 49, 92..	23, 26, 41
31	Rules 46, 47, 49, 92	23–26, 41
32	Rule 48	26
33	Rule 50	26
34	Rule 91	41
36	Rules 63, 64	31–33
37	Rules 65—67	33, 34
38	Rules 65—67	33, 34
40	Rule 51	28
41	Rules 68, 80	34–35, 39
49	Rule 3	1
54	Rules 86—89, 93	40–41
58	Rule 90	41

GOVERNMENT OF THE UNITED PROVINCES

No. 618-Rev.

Revenue Department

Dated Naini Tal, 10th August, 1935

NOTIFICATION

In continuation of Revenue Department notification no. 325-Rev., dated the 27th April, 1935, it is hereby notified for general information that the Local Government have, in exercise of the powers conferred by section 54 of the United Provinces Encumbered Estates Act, 1934, made the following rules under that Act.

By order,
A. C. TURNER,
Secretary.

Errata slip to Appendix I to the Rules framed by the Local Government under the United Provinces Encumbered Estates Act, 1934

(1) *Page* 2A, in line 10 of the settlement circle under tahsil Saharanpur, *for* " Haraura II and III " *substitute* " Haraura III and IV."

(2) *Page* 2A, in line 12 under the same tahsil, *for* " Fyzabad I " *substitute* " Fyzabad III."

(3) *Page* 10A, in the first column *for* " Dalaganj " *read* " Dataganj."

(4) *Page* 15A, under Allahabad District, in the second column, both lines opposite tahsil Sirathu, *for* " pargana Kaya " *substitute* " pargana Kara."

(5) *Pages* 27A and 28A, in the third column against the whole of tahsil Hardoi, *for* " 32 " *substitute* " 23."

(6) *Page* 32A, in the second line of the second column opposite tahsil Partabgarh, *for* " Athena " *substitute* " Ateha."

Rules made under the United Provinces Encumbered Estates Act, 1934

[NOTE—*The section numbers in the margin are references to the sections of the Act as re-numbered by the United Provinces Encumbered Estates (Amendment) Act*, 1935.]

CHAPTER I

THE APPLICATION AND THE DETERMINATION OF THE DEBT TO BE LIQUIDATED

Section 4.

1.—A landlord applying under section 4 shall attach to his application a certified extract from the most recent *khewat* of all the mahals in which his landed property lies, showing the nature and extent of his proprietary rights in these mahals and whether his land is "protected" land or not.

Section 4.

2.—If the applicant is a Hindu his application must, in accordance with the second proviso to section 4(1) of the Act,—

(1) contain a declaration that the applicant is not a member of a joint family, or

(2) state that the applicant is a member of a joint family and that all the members of such family join in the application, and give the names and addresses of all such members, or

(3) state that the applicant is a member of a joint family and specify which, if any, members of such family join in the application giving their names and addresses; in this case the application must also give separately the names and addresses of all members of such family who do not join in the application, and must contain a declaration of the intention of the applicant and such members of the family who join with him in the application, of separating from the rest of the joint family and must state the share which the applicant and those who join with him, if any, would be entitled to get on partition of the family property.

Sections 4 and 49.

3.—If the applicant wishes the provisions of section 49 to be applied he shall state this fact in his application and shall also state whether or not he is the sole heir of the deceased debtor and, if he is not, the names and addresses of the heirs who have joined with

him in the application and of those who have not so joined.

Section 5.

4.—In making a report to the Board of Revenue under section 5 the Collector shall, as far as possible, state the amount of land revenue payable by the applicant in each district in which his property lies and also the names and addresses of the creditors and the amount owed to each.

Sections 6 and 13.

5.—Public debts which can be collected as arrears of land revenue will not be reported by the Collector to the Special Judge. The collection of such amounts will continue as if no application had been made under the Act. Debts due to Co-operative Societies will also be collected as if no application under the Act had been made. In order to find out whether any other public debts are outstanding against the landlord the Collector shall inform the Collector of each of the districts in which the landlord's property is situated or in which he carries on any business that he has applied under the Act and shall also inform the Director of Agriculture. He shall also inquire from the District Judge of each of these districts whether any suit has been filed by Government against the landlord and is still pending and whether any decree in favour of Government has been passed against the landlord and is still unsatisfied. Each Collector will make inquiries from the local bodies in his district regarding the landlord's public debts. Public debts which cannot be collected as arrears of land revenue may be reported to the Special Judge at any time; debts due to Co-operative Societies need never be so reported.

Section 14.

6.—The proceedings in the court of the Special Judge will be governed by the following provisions of the Code of Civil Procedure of 1908 so far as they are applicable and not inconsistent with the provisions of the Act and these rules:

Sections 33, 34, 35, 75, clauses (*a*) and (*c*), 76, 114, 139, 151, 152, 153.

Orders III, IX, X, XI, XII, XIII, XIV, XVI (rules 1—22), XVII, XVIII (rules 1—6, 8—12 and 15—19, provided that evidence shall ordinarily be recorded in English), XIX, XX, XXVI (rules 1—8, 11, 12 and 15—18), XXVIII, XXIX, XXX, XXXII and XLVII.

Amendment to General Instructions to the Rules made under the United Provinces Encumbered Estates Act, 1934

Substitute the following for the existing para. 7 :

"The Commissioner shall within 30 days of their receipt forward a consolidated report based on the reports of the Collectors and Special Judges of his division along with his comments to the Board of Revenue, who shall submit a consolidated report to Government showing the working of the Act, not later than three months after the end of each quarter."

BRIJ CHAND SHARMA,
Deputy Secretary.

7.—When the Special Judge makes an order under section 8(1) calling on an applicant to submit a written statement the order shall be communicated to the applicant through the Collector. Section 8.

8.—When an application is made by the manager of any property under the superintendence of the Court of Wards the Special Judge shall, for the purposes of the proviso to section 8(2), send a copy of the application to the landlord by registered post and the expenses of so doing shall be paid by the applicant. Section 8.

9.—When a copy of a notice published under section 9(2) is to be sent by registered post to every creditor named by the applicant in his statement submitted under section 8(1) the expenses of so doing shall be paid by the applicant. Section 9.

10.—The written statements of claims filed by creditors under section 9 shall be verified in the manner prescribed by law for the verification of plaints. Section 9.

11.—When the Special Judge causes a copy of a notice to be published in a newspaper under section 9(2) or section 11(1) the expenses of publication shall, if it is made under section 9(2), be paid by the applicant and, if it is made under section 11(1), by the applicant or by such claimant as the Special Judge may direct. Sections 9 and 11.

12.—Save as otherwise provided in these rules every notice, summons, order or other process shall ordinarily be sent to the person concerned by registered post. If the person concerned refuses to receive it or cannot be found or, if in any case the Special Judge so directs, it shall be served, as nearly as may be, in the manner provided for service of summonses in Order V of the Code of Civil Procedure, 1908, and such service shall be effected through the District Judge. Sections 9 and 11.

13.—Save as otherwise provided in these rules every process, whether sent by registered post or according to the provisions of the Code of Civil Procedure, 1908, shall be sent at the expense of the party on whose behalf it is issued, unless the Special Judge otherwise directs, and the necessary expenses shall be deposited within a time to be fixed by the Special Judge before the process is issued. These expenses will be reckoned as costs of the proceedings. Sections 9 and 11.

Sections 9 and 11.

14.—Fees payable for the service of processes according to the provisions of the Code of Civil Procedure, shall be the same as those prescribed for the service of similar processes issued by a Civil Court.

Section 19.

15.—When the Special Judge sends a decree to the Collector under section 19, he shall, at the same time, intimate to him the extent to which the debt to which the decree relates has been reduced under section 14 and the amount of the costs awarded against the debtor.

CHAPTER II

THE PRELIMINARY VALUATION

Sections 2 and 26.

16.—As soon as the Collector has forwarded the landlord's application to the Special Judge he shall obtain from the tahsildar of each tahsil in which the landlord's land is situated a statement showing in detail the pre-slump and post-slump profits under each of the sub-clauses of clauses (*j*) and (*k*) of section 2 of each of the landlord's separate properties in that tahsil. For the purposes of these rules properties which are situated in different mahals or in different villages will be considered to be separate properties. *Zaid mutalba* will not be included in the rent in this statement.

Section 2(j)(ii).

17.—The rent (pre-slump) which the landlord would have to pay annually for his *sir* and *khudkasht*, as referred to in section 2(*j*)(ii) of the Act, will be determined as follows :

(i) In Agra, under section 14(1) of the Agra Tenancy Act, 1926, on sale of proprietary rights an ex-proprietary right arises in all *sir* land and in *khudkasht* of 10 or more years' standing.

This area will be valued at the rates prescribed for ex-proprietary tenants in section 14(1) of the Agra Tenancy Act.

Khudkasht of less than 10 years' standing will be valued at the rates prescribed for statutory tenants under that Act.

(ii) In Oudh, under section 7-A(1) of the Oudh Rent Act, 1886, as amended by U. P. Act IV of 1921, on sale of proprietary rights an ex-proprietary right arises in all *sir* land and in *khudkasht* of 12 or more years' standing. This area will be valued at the rates prescribed for ex-proprietary tenants in section 7-A(1) of the Oudh Rent Act.

Khudkasht of less than 12 years' standing will be valued at the rates prescribed for statutory tenants under that Act.

(iii) In making valuations under this rule the remissions in rent for the fall in prices will be ignored as they are pre-slump valuations.

(iv) A local inspection is not obligatory when making these valuations.

Section 2(k) (ii).

18.—The rent (post-slump) which the landlord would have to pay annually for his *sir* and *khudkasht*, as referred to in section 2(*k*)(ii) of the Act, will be in each case the valuation made under rule 17 reduced as follows :

(i) In Agra, in the case of *sir* and the *khudkasht* of 10 or more years' standing, the valuation under rule 17 reduced in the same proportion that the recorded occupancy rental of the mahal concerned was reduced by the remissions for the slump in prices ; in the case of *khudkasht* of less than 10 years' standing the valuation under rule 17 above reduced in the same proportion that the recorded statutory rental of the mahal concerned was reduced by the remissions for the slump in prices.

(ii) In Oudh, in the case both of *sir* and all the *khudkasht*, the valuations under rule 17 reduced in the same proportion that the recorded statutory rental of the mahal concerned was reduced by the remissions for the slump in prices :

Provided that, for reasons to be recorded, the Collector may substitute for the proportion by which rentals were reduced by the remissions for the slump in prices in the mahal concerned, the proportion by which they were reduced in any neighbouring and similar mahal or mahals, if he considers that this would give a more equitable result. This substitution would be unavoidable in the case of a mahal containing no cash-rented areas, and it may be necessary when the cash-rented area of a mahal is small compared with the area of *sir* and *khudkasht*.

Section 2(j) (iii).

19.—(i) Under section 2(*j*)(iii) will be included the pre-slump valuation of grain-rented, favoured, rent-free and unrented holdings, which will be made as follows in both Agra and Oudh.

(ii) The rental of grain-rented holdings will be assumed to be the average cash yield per annum to the proprietor from the holdings as recorded in the

patwari's papers for the three normal years nearest before 1338 F. (The entries of 1338 F. will never be taken.)

If such figures are not available or are obviously quite unreliable, these holdings will be valued at the rates for statutory tenants of the mahal concerned before the slump in prices.

(iii) The rental of favoured, rent-free and unrented holdings will be assumed to be the valuation of those holdings at the rates for statutory tenants of the mahals concerned before the slump in prices.

(iv) A local inspection is not obligatory when making these valuations.

20.—(i) Under section 2(*k*)(iii) will be included the post-slump valuation of grain-rented, favoured, rent-free and unrented holdings, which will be made as follows in both Agra and Oudh. Section 2 (k) (iii).

(ii) The rental of grain-rented holdings will be assumed to be the average cash yield per annum to the proprietor from these holdings as recorded in the patwari's papers for the years 1339—1341 F., provided that if the recorded cash yield in these years is obviously unreliable, or if no figures have been recorded for two or more of these years, the valuation will be made at the pre-slump rates for statutory tenants for the mahal concerned reduced by the same proportion that the recorded statutory rental of the mahal was reduced by the remissions for the slump in prices :

(iii) The rental of favoured, rent-free and unrented holdings will be the valuation made under rule 19(iii) reduced in the same proportion that the recorded statutory rental of the mahal concerned was reduced by the remissions for the slump in prices :

Provided that, for reasons to be recorded, the Collector may, in clauses (ii) and (iii) of this rule, substitute for the proportion by which recorded statutory rentals were reduced by the remissions for the slump in prices in the mahal concerned, the proportion by which they were reduced in any neighbouring and similar mahal or mahals, if he considers that this would give a more equitable result. This substitution would be unavoidable in the case of a mahal

containing no cash-rented statutory area, and it may be necessary when the cash-rented statutory area of a mahal is small compared with the grain-rented, favoured, rent-free and unrented areas.

Sections 2(m) and 26.

21.—The pre-slump profits of a property, when multiplied by the transfer multiple ultimately selected by the Collector for that property, give the transfer value of that property. The standard transfer multiples are given in Appendix I. The standard multiple for a circle can subsequently be varied by the Collector for any particular property within that circle in accordance with the rules in Chapter III, but for the preliminary valuation of the property the Collector will multiply the pre-slump profits by the standard transfer multiple of the circle in which the property lies and so obtain the preliminary transfer value thereof.

This calculation will be made only for " unprotected " properties.

NOTE—The standard transfer multiples given in Appendix I are for revenue-paying properties. In the case of a *revenue-free* property the standard transfer multiple is—

(*a*) in permanently settled areas 12½ per cent. above the standard transfer multiple shown in Appendix I, and

(*b*) in temporarily settled areas 25 per cent. above the standard transfer multiples shown in Appendix I.

Sections 2(l) and 26.

22.—The standard instalment multiple is one-fifth the standard transfer multiple, but if one-fifth of the standard transfer multiple exceeds 7·5 the standard instalment multiple will be 7·5, and if one-fifth of the standard transfer multiple is less than 5, the standard instalment multiple will be 5.

NOTE—The standard instalment multiple for a *revenue-free* property is one-fifth of the standard transfer multiple for revenue-paying areas of the circle in which the property lies as shown in Appendix I, not as increased by the note to rule 21. It is also subject to the same limits as the standard instalment multiple of a *revenue-paying* property.

The standard instalment multiples for a circle can subsequently be varied by the Collector for any particular property within that circle in accordance with the rules in Chapter III, but for the preliminary calculations the Collector will multiply the post-slump profits of the property by the standard instalment multiple of the circle in which the property lies and so obtain the preliminary instalment value thereof.

This calculation will be made for both " protected " and " unprotected " properties.

23.—The Collector will then add together the preliminary transfer values of all the applicants' unprotected properties. He will then add together the preliminary instalment values of all the applicants' unprotected properties. Finally, he will add together the preliminary instalment values of all the applicants' protected properties. **Section 26.**

This will complete the preliminary valuation.

CHAPTER III

LIQUIDATION OF PRIVATE DEBTS

Sections 19, 22 and 7.

24.—When the Special Judge's report is received under section 19, the Collector shall summon the landlord and ask him whether he intends to pay any portion of the debt under section 22. If in order to do so the landlord wishes to sell any of his property the Collector shall not sanction the sale under section 7, unless he considers that the price obtained is a fair one and unless the whole of the sale price is deposited in his court.

See also rules 83, 84 and 85.

Section 26.

25.—If the nature or extent of the landlord's proprietary rights in land, as reported by the Special Judge, differ from the nature and extent of those rights as mentioned in his application by the landlord himself the Collector shall re-calculate the preliminary transfer and instalment values of the landlord's proprietary rights in land.

Section 26.

26.—The Collector shall then, without necessarily waiting for the expiry of the period of two months prescribed under section 22, summon the landlord and all the creditors and after explaining the preliminary valuations shall hear any objection which they may make to them, and shall take any necessary evidence. He shall then record his decision on the following points :

(1) Whether the pre-slump and post-slump profits accepted by him for calculating the preliminary transfer and instalment values are correct.

(2) Whether the standard multiples are suitable or whether some or all of these multiples should be modified.

(3) Whether there has been any decrease in the profits since 1338 F. due to a fall in the cultivated area or to a decrease in the kind of profits mentioned in sub-clauses (iii), (iv) and

(v) of clause (*j*) of section 2, and, if so, how much thereof is due to the fall in agricultural prices.

NOTE—The appeal against an order of a Collector made under this rule lies to the Board of Revenue, but if the Collector wishes to correct the patwari's papers he must for that purpose proceed separately under the Land Revenue Act, 1901, and the appeal against such order will lie to the court to which such appeals lie under that Act.

The proceedings taken under the Land Revenue Act, if any, should not be allowed to delay the Collector's decisions on points (1) to (3) above. He should record his decisions on these points first and then take any action he thinks necessary under the Land Revenue Act.

Section 26.

27.—(i) In arriving at decisions under clause (2) of rule 26 the Collector will first select for each unprotected property the suitable transfer multiple.

(ii) He will in the case of each such property take the standard transfer multiple and consider whether it is suitable for application to the property under consideration, or whether good reasons exist for raising or lowering it.

If compared with other properties in the same settlement circle the rent is easily and regularly collected or the cost of management is small, such would be good reason for raising the multiple. In considering rental collections regard should be had both to pre-slump collections and collections of the rents as reduced by the slump remissions.

If, on the other hand, rental collections are comparatively difficult in the property under consideration compared with the rest of the settlement circle in which it lies, or if the cost of management is high, such would be good reason for lowering the transfer multiple.

Again, if a property is markedly below the average of the settlement circle in which it lies, there may be reason to reduce the transfer multiple and *vice versâ*.

The Collector shall consider carefully all factors that may come to his notice in this connexion.

Example—Suppose that the standard transfer multiple for a particular settlement circle which is unirrigated and generally precarious is 25 and that the property in question lies in this circle but has some irrigation and is on the whole above the level of the rest of the circle. The Collector might fix a transfer multiple of 26 or 27 for this property.

(iii) The Collector shall not fix a transfer multiple for any particular property which differs from the

standard transfer multiple of the settlement circle in which the property lies by more than 16 per cent. either way, without obtaining the previous sanction of the Commissioner.

Section 26. **28.**—(i) Having fixed the transfer multiple of each unprotected property the Collector will next proceed to select the suitable instalment multiple for each separate property, whether protected or unprotected.

(ii) He will in the case of each property take the standard instalment multiple as determined in rule 22 and consider whether it is suitable for application to the property under consideration or whether good reasons exist for raising or lowering it.

In modifying the standard instalment multiple consideration must be given to the needs and circumstances of the indebted landlord in so far as they affect the probability that he will be able to pay the proposed instalments regularly. In this connexion rule 57 will also be considered. It must be remembered that if the instalment multiple be raised the annual instalments to be paid by the debtor will be raised and *vice versâ*.

It is of paramount importance to the successful working of the Act that instalments be fixed within the capacity of the debtor to pay annually, and hence that the instalment multiple be not fixed too high.

Good reasons for raising the instalment multiple would be—

(*a*) that the debtor has a stable income from sources other than his agricultural land and so can afford to allot to the payment of his debt more of his net income from his agricultural land than he would otherwise have been able to do, or

(*b*) that the property includes a large proportion of *sir* and *khudkasht*, or a very paying farm of the landlord.

Great care should be taken not to fix too high an instalment multiple if the post-slump profits are largely made up of the kind of profits mentioned in sub-clauses (iv) and (v) of section 2(*k*) of the Act.

Examples—(1) In the example at the end of clause (ii) of rule 27 the standard instalment multiple is 5. As the property is more stable than and above the

average of the settlement circle in which it lies, the instalment multiple might for this reason be raised to 5·25 or even to 5·5.

(2) If in another case the standard instalment multiple is 7, but the landlord has a stable source of income apart from his agricultural land and he is as a result able and willing to allot towards the payment of his debt a greater share in the profits of that land, the Collector might fix a multiple of 7·5. If, on the other hand, the landlord has no outside income and is usually irregular in the payment of his land revenue, the Collector should lower the multiple to 6·5 or even 6.

(iii) The Collector shall not fix an instalment multiple for any particular property which differs from the standard instalment multiple of the settlement circle in which the property lies by more than 0·75 either way, without obtaining the previous sanction of the Commissioner.

(iv) The Commissioner shall in no case sanction an instalment multiple greater than 9, and he shall not sanction an instalment multiple greater than 7·5, unless he is satisfied that the landlord has a sufficiently large stable income apart from the profits of his agricultural land to enable him to pay the resulting instalments regularly.

Second proviso to section 26.

29.—In determining whether any decrease in cultivated area that may have taken place since 1338 F. in the property under consideration is due to the slump in prices, the Collector shall endeavour to ascertain the precise cause of the reduction in the cultivated area and for this purpose shall also have regard to any variations in the cultivated area of neighbouring mahals and villages and the reasons therefor.

Section 26.

30.—(i) When the Collector has decided all the points mentioned in rule 26, he shall then, if changes have been made, re-calculate the transfer value of each unprotected property of the landlord by multiplying the revised pre-slump profits thereof by the transfer multiple which he has finally fixed or has been ordered or allowed by the Commissioner to fix.

(ii) He will then re-calculate, where necessary, the instalment value of each protected and unprotected property of the landlord by multiplying the revised

post-slump profits thereof by the instalment multiple which he has finally fixed or has been ordered or allowed by the Commissioner to fix.

(iii) Finally, he will by addition calculate—

(*a*) the transfer value of the whole of the landlord's unprotected property,

(*b*) the instalment value of the whole of the landlord's unprotected property, and

(*c*) the instalment value of the whole of the landlord's protected property.

Section 24. **31.**—(i) As soon as the period of two months prescribed under section 22 has expired the Collector shall proceed to hear any objection which the landlord may make to the realization under section 24 of the value of his property other than his proprietary rights in agricultural land.

(ii) If the question whether the debt can be liquidated under section 27 (i.e. without transfer of any part of the landlord's unprotected agricultural land) depends on objections made against the Collector's calculations of the transfer and instalment values of the land, the Collector shall first proceed to decide these objections.

(iii) He shall then proceed to decide the objections made to the sales proposed under section 24, but he shall not permit any such sales to take place until any appeal against his orders under clause (ii) has been decided by the appellate court or those orders have become final because no appeal is filed within the period of limitation.

Section 24. **32.**—As soon as all objections under section 24 have been finally decided and the orders referred to in rule 31(ii) have become final, the Collector shall realize the value of the landlord's property other than his proprietary rights in land to the sale of which either no objection has been made or any objection made has been disallowed.

Section 24. **33.**—The Collector shall in no case sell under section 24 such personal property of the debtor and his family, as is, in his opinion, reasonable for persons of the debtor's position to possess, unless such property is pledged as security for a loan.

Unless the debts can be liquidated under section 27, the Collector shall sell any immovable property, other than agricultural land, which is subject to a mortgage and any movable property which has been pledged as security for a loan.

34.—If anyone applies to take a mortgage under section 25 the Collector shall proceed according to the rules contained in Chapter VI. Section 25.

35.—(i) If a mortgage is not given under section 25 the Collector will now add together the instalment values of the unprotected and protected properties of the landlord. 27.

If the debt remaining to be liquidated at this stage, including interest up to the date on which the Collector passes final orders for liquidation, is less than the total instalment value of the whole of the landlord's property, both protected and unprotected, the Collector shall proceed under section 27.

(ii) In this case the Collector has a certain amount of discretion, because by paying the maximum instalment each year the debtor could liquidate the debt in less than 20 years. On the other hand, the Act permits repayment in any period up to 20 years, and in order to ensure that, as far as possible, there will be no failure in the payment of instalments, it is desirable to fix the period of repayment somewhere between the shortest period in which the debt could be repaid and the maximum period of repayment, viz. 20 years.

In fixing the period of repayment and consequently the amount of each annual instalment the Collector will bear in mind that a decrease in the annual payment will facilitate collection, but prolong the period of the debtor's disabilities under section 7(3) of the Act.

It is, however, of paramount importance that the annual repayment instalment should not be fixed so high as to incur a risk of failure on the part of the landlord to maintain payment of the annual instalments.

(iii) The method of determination of the period of repayment and the amount of the annual instalment is explained in the following rules.

36.—(i) Appendix II gives in column B for each exact number of years (in column A) up to 25 the amount of debt that, together with interest at $4\frac{1}{4}$ Section 27.

per cent. per annum, would be repaid in that number of years.

Examples—(1) If Rs.1,000 were paid each year for 10 years, the amount of debt paid off in those 10 years, together with interest at 4¼ per cent. per annum, would be 1,000 multiplied by the figure in column B of Appendix II against the figure 10 in column A, viz. :

Rs.1,000 multiplied by 8·011=*Rs.8,011.*

(2) If there were 15 annual payments of Rs.2,000 the debt liquidated in the 15 years, including interest at 4¼ per cent. per annum, would be Rs.2,000 multiplied by 10·926=*Rs.21,852.*

(ii) Conversely, the annual instalment that would liquidate any given debt in a given number of years with interest at 4¼ per cent. per annum will be the debt divided by the figure in column B of Appendix II opposite that number of years in column A.

Examples—(1) If the debt is Rs.10,000 and it is to be repaid (with interest at 4¼ per cent. per annum) in 10 years, the annual instalment to be paid in each of those 10 years would be

Rs.10,000 divided by 8·011=*Rs.1,249.*

(2) And if the debt has to be repaid in 20 years, the annual instalment to be paid would be

Rs.10,000 divided by 13·294=*Rs.753.*

Section 27. 37.—The Collector will first calculate the maximum instalment that can be paid each year by the whole of the debtor's property, protected and unprotected. To do this he will divide the total instalment value of the debtor's whole property, protected and unprotected by 13·294, rounding the result to the nearest whole rupee.

Example—Thus, if the total instalment value of the debtor's whole property protected and unprotected is Rs.2,50,000 the maximum instalment payable each year would be

Rs.2,50,000 divided by 13·294=*Rs.18,805.*

Section 27. 38.—The Collector will next ascertain in how many years such maximum annual instalments would liquidate the debt.

He will divide the debt by the figure obtained in rule 37 above, i.e. by the maximum instalment payable by the property. The result will be a figure lying between two of the figures in column B of Appendix II.

After a number of years equal to that shown in column A opposite the upper of these two figures in column B the debt would not quite be liquidated.

After a number of years equal to that shown in column A opposite the lower of these two figures in column B, something more than the debt would be paid off.

The number of annual payments will be the number in column A opposite the lower of the figures in column B, and in order to pay off the exact amount of the debt the annual instalment will be lowered to some extent. The actual instalment necessary would be the debt divided by the lower figure in column B mentioned above.

Example—Thus, in the example given in rule 37, if the debt is Rs.1,60,000 the Collector will divide Rs.1,60,000 by the figure Rs.18,805 obtained under that rule 37. The result is 8·508 which lies between the figures 8·011 and 8·643 in column B of Appendix II. The corresponding figures in column A are 10 and 11 years. In 10 years the debt would not quite be liquidated, whereas in 11 years too much would be repaid.

The minimum number of instalments would thus be 11 and the amount of each instalment would be

Rs.1,60,000 divided by 8·643=*Rs.18,512.*

Thus, in this case the least period in which the debt of Rs.1,60,000 could be liquidated would be 11 years and the annual instalment would be Rs.18,512.

39.—The Collector will next calculate the minimum annual instalment which would liquidate the debt, together with interest at 4¼ per cent. per annum, in 20 years. Section 27.

From rule 36(ii) this is the debt divided by 13·294.

Example—In the example given in rule 38 this would be

Rs.1,60,000 divided by 13·294=*Rs.12,036.*

Section 27.

40.—The Collector will then, having regard to the circumstances of the case, fix the period of repayment somewhere between the minimum period of repayment and the maximum of 20 years, and calculate the annual instalments to be paid accordingly.

Example—For instance, in the example given in rule 38, the debt could be repaid in the minimum period of 11 years by annual instalments of Rs.18,512. It could be repaid in 20 years by annual instalments of Rs.12,036.

The Collector might in this case pass an order that the debt should be liquidated in 15 years. The annual payments then would be

Rs. 1,60,000 divided by 10·926=*Rs.14,644.*

NOTE—The figure 10·926 is that found in column B of Appendix II opposite 15 years.

Section 28.

41.—(i) If a mortgage is not given under section 25 and the debt remaining to be liquidated at this stage exceeds the total instalment value of the landlord's protected and unprotected property, the Collector will proceed under section 28 of the Act.

(ii) He will add the transfer value of the landlord's unprotected property, if any, to the instalment value of his protected property, if any.

(iii) If this total exceeds the debt remaining to be liquidated, the Collector will proceed under clause (i) of section 28.

(iv) If, however, this total is less than the debt remaining, the Collector will proceed under clause (ii) of section 28.

Section 28(i)

42.—When proceeding under clause (i) of section 28 the Collector will make the following calculations:

I—In cases where there is no protected property

(i) The Collector will first determine the share of the landlord's unprotected property that has to be transferred to the creditors.

This is represented by the fraction

$$\frac{\text{The debt } \textit{minus} \text{ the instalment value.}}{\text{Transfer value } \textit{minus} \text{ instalment value.}}$$

So the Collector will

(*a*) subtract the instalment value from the debt,

(*b*) subtract the instalment value from the transfer value,

(*c*) divide the figure (*b*) into the figure (*a*), working out the result to the nearest fourth place of decimals. This will be the share of the landlord's unprotected property to be transferred to the creditors.

Example—Thus, supposing the debt is Rs.1,50,000, the transfer value Rs.2,50,000, and the instalment value Rs. 51,000.

The share to be transferred is

$$\frac{1,50,000-51,000}{2,50,000-51,000}=\frac{99}{199}=0\cdot4975.$$

So that nearly half the unprotected property will have to be transferred to the creditors.

(ii) The Collector will next determine the annual instalments that the landlord will have to pay for the next 20 years in order to liquidate the remainder of the debt.

He will calculate the transfer value of the share of the unprotected property that is to be transferred to the creditors, and deduct this amount from the debt. The balance has to be paid by the landlord to Government by 20 annual instalments. The amount of each instalment will be the balance of the debt divided by 13·294 and rounded to the nearest rupee.

Example—Thus, in the example given in clause (i) above a share equal to 0·4975 of the property is to be transferred to the creditors. The transfer value of this share is 0·4975 multiplied by Rs.2,50,000= Rs.1,24,375. The balance of the debt after this share has been transferred will be Rs.1,50,000 *minus* Rs.1,24,375, which comes to Rs.25,625. This has to be repaid by the landlord to Government in 20 annual instalments of Rs.25,625 divided by 13·294=Rs.1,928 per annum.

(iii) The debt will thus be completely liquidated by transferring to the creditors the share of the unprotected property calculated under (i) above and 20 annual payments to Government as calculated under (ii) above.

Example—In the example given above the debt of Rs.1,50,000 would be completely liquidated by

transfer of a share equal to 0·4975 of the unprotected property of the landlord to the creditors and the payment to Government of 20 annual instalments of Rs.1,928.

NOTES—(1) Where, by slight rounding upwards, the share to be transferred as calculated under clause (i) of this rule can be fixed at a convenient fraction, this will greatly simplify the actual calculations. For instance, in the example it would be better to increase the share to be transferred to ½. The transfer value of this share is one-half of Rs.2,50,000=Rs.1,25,000. The balance of the debt to be liquidated by annual instalments payable to Government would become Rs.1,50,000 *minus* Rs.1,25,000=Rs.25,000, which would be liquidated by 20 annual instalments of Rs.25,000 divided by 13·294, i.e. Rs.1,881 per annum.

(2) The share as calculated in (i)(c) above should never be rounded downwards, unless the amount of rounding is negligible, otherwise the instalments payable in liquidation of the balance of the debt may prove too high.

II—In cases where there is both protected and unprotected property

(i) The Collector will first determine the share of the landlord's unprotected property that has to be transferred to the creditors.

This is represented by the fraction

$$\frac{\text{The debt } \textit{minus} \text{ the sum of the instalment values of both protected and unprotected property.}}{\text{The transfer value of the unprotected property } \textit{minus} \text{ the instalment value of the unprotected property.}}$$

So the Collector will

(*a*) add together the instalment values of both the protected and unprotected property of the landlord,

(*b*) subtract the figure in (*a*) from the debt still to be liquidated,

(*c*) subtract the instalment value of the unprotected property from the transfer value of the unprotected property,

(*d*) divide the figure (*c*) into the figure (*b*), working out the result to the nearest fourth place of decimals.

This will be the share of the landlord's unprotected property to be transferred to the creditors.

Example—If the debt is Rs.1,50,000, the transfer value of the unprotected property Rs.2,50,000 and the instalment values of the unprotected and protected properties Rs.51,000 and Rs.40,000 respectively.

The fraction of the unprotected property that will have to be transferred to the creditors will be $\frac{1,50,000 \textit{ minus } 91,000}{2,50,000 \textit{ minus } 51,000} = \frac{59}{199} = 0{\cdot}2965$. So that a share of 0·2965 of the unprotected property will have to be transferred to the creditors.

(ii) The Collector will next determine the annual instalments that the landlord will have to pay to Government for the next 20 years from the profits of the remainder of his unprotected property *plus* his protected property.

He will calculate the transfer value of the share of the unprotected property that is to be transferred to the creditors and deduct this from the debt. The balance has to be paid by the landlord to Government by 20 annual instalments. The amount of each instalment will be the balance of the debt divided by 13·294 and rounded to the nearest rupee.

Example—In the example in clause (i) a share equal to 0·2965 of the unprotected property will be transferred. The transfer value of this is 0·2965 multiplied by Rs.2,50,000=Rs.74,125. The balance of the debt after this transfer will be Rs.1,50,000 *minus* Rs.74,125=75,875. This has to be paid by the landlord to Government in 20 annual instalments each of Rs.75,875 divided by 13·294, i.e. of Rs.5,707.

(iii) The debt will thus be completely liquidated by transferring the share of the unprotected property calculated under (i) above and 20 annual payments to Government as calculated under (ii) above.

Example—In the example given the debt of Rs.1,50,000 would be completely liquidated by transfer of a share of 0·2965 of the landlord's unprotected property to the creditors and the payment to Government of 20 annual instalments of Rs.5,707.

NOTES—(1) The instructions as to rounding the share to be transferred given in the notes at the end of Part I of this rule apply equally to Part II. For instance, in the example given in Part II the share of the unprotected property to be transferred might be rounded upwards to $\frac{3}{10}$ths. The transfer value of this share would be $\frac{3}{10}$ths of Rs 2,50,000=Rs.75,000, and the balance of the debt to be liquidated by instalments payable to Government would be Rs.1,50,000 *minus* Rs.75,000=Rs.75,000. This would be liquidated by 20 annual instalments of Rs.75,000 divided by 13·294, i e. Rs.5,642.

(2) The share to be transferred should only be rounded downwards when the amount of rounding is negligible.

(iv) If the fraction calculated in (i) of this part of this rule is equal to or greater than unity, the whole of the landlord's unprotected property will be transferred to the creditors and in addition the landlord will pay to Government 20 annual instalments each equal to the instalment value of his protected land divided by 13·294.

Example—Had the debt in the last example been Rs.2,90,000 the fraction of the unprotected property to be sold would have been $\frac{2,90,000 \textit{ minus } 91\,000}{2,50,000 \textit{ minus } 51,000} = \frac{199}{199} = 1$. Thus, all the unprotected property would have to be transferred to the creditors and Rs.2,90,000 *minus* Rs.2,50,000=Rs.40,000 would have to be liquidated by 20 annual payments of Rs.40,000 divided by 13·294, i.e. Rs.3,009.

Section 28 (ii).

43.—As explained at the end of rule 41, if the sum of the transfer value of the landlord's unprotected property and the instalment value of his protected property, if any, is less than the debt remaining to be liquidated, the Collector will proceed under clause (ii) of section 28.

I—In cases where there is no protected property

If the debt remaining to be liquidated exceeds the transfer value of the unprotected property and there is no protected property, the whole of the unprotected property will be transferred to the creditors.

II—In cases where there is both unprotected and protected property

If the debt remaining to be liquidated exceeds the transfer value of the unprotected property *plus* the instalment value of the protected property, the whole of the unprotected property will be transferred to the creditors, and the landlord will, in addition, pay to Government 20 annual instalments each equal to the instalment value of the protected property divided by 13·294, the result being rounded to the nearest whole rupee.

III—In cases where there is only protected property

In such cases no property will be transferred to the creditors but the landlord will pay to Government 20 annual instalments each equal to the instalment value of the protected property divided by 13·294, the result being rounded to the nearest whole rupee.

44.—(i) In order to ensure that any instalment calculated under rule 40, 42 or 43 can be paid by the landlord, the Collector shall calculate the difference between the post-slump profits of the property that will remain with the landlord and the amount of instalment to be paid annually by him to Government. Section 26.

(ii) If this difference is not sufficient to maintain the landlord and his family, after allowing for probable short collections, if any, and the cost of management of the property remaining with the landlord, the Collector shall reduce the instalment multiple or multiples and prepare a fresh liquidation scheme.

(iii) The Collector shall also have regard to the existence of any public debts not included in the liquidation scheme. (*See* also rule 57.)

(iv) The lowering of the instalment multiple increases the amount of land that has to be transferred to the creditors and decreases the amount that has to be paid to Government by instalments. It increases the amount which the landlord retains each year for the maintenance of his family and the upkeep of the remainder of his estate.

(v) In no case in which the landlord has not a regular income, apart from the profits of his agricultural land, will the annual instalment fixed be greater than the difference between two-thirds of the landlord's present assets as reduced by the slump in prices and the amount of land revenue payable by him after deducting the remissions for the slump in prices.

45.—If liquidation proceeds under section 27 each creditor will be given bonds, the total of which will be equal to the amount due to him. Sections 27 and 30.

46.—If liquidation proceeds under section 28(1) the Collector shall give bonds up to the amount of the debt that has to be liquidated by payment of instalments to Government, to those creditors whose debts have been ranked highest for priority by the Special Judge and shall allot shares in the landlord's unprotected property to the others. Sections 28(1) and 31(1).

Example—If in the example given in rule 42-II(i) the total debt of Rs.1,50,000 is composed of Rs.50,000 due to *A*, Rs.40,000 due to *B*, and Rs.60,000 due to *C* in that order of priority.

Rupees 75,875 is to be liquidated by instalments to Government, and Rs.74,125 of the debt is to be met by transfer of a share of 0·2965 of the unprotected property.

Thus *A* will get bonds to the value of Rs.50,000.

B will get bonds to the value of Rs.25,875 (i.e. Rs.75,875 less Rs.50,000) and for his remaining dues of Rs.14,125 he will get a share in the unprotected property of the landlord, the transfer value of such share being Rs.14,125. This share will be $\frac{14,125}{2,50,000}$ =0·0565 of the unprotected property.

C will get the remainder of the share that has to be transferred to the creditors, viz. 0·2965 *minus* 0·0565=0·24 of the landlord's unprotected property.

NOTE—If the Collector had rounded the share of the unprotected property to be transferred to $\frac{3}{10}$ths as explained in note (i) to that example—

A would get bonds to the value of Rs.50,000.

B would get bonds to the value of Rs.25,000 (i.e. Rs.75,000 less Rs.50,000) and a share of $\frac{15.000}{2,50,000} - \frac{3}{50}$ths of the unprotected property, and

C would get the balance of the share of the unprotected propery to be transferred, viz. $\frac{3}{10}$ths *minus* $\frac{3}{50}$ths= $\frac{6}{25}$ths.

Sections 28 (2) and 31 (2)

47.—If liquidation proceeds under section 28(2) the following cases arise :

I—In cases where there is no protected property

The whole of the unprotected property will be allotted to the creditors. They will be allotted shares at their transfer value in the order in which their dues have been ranked for priority by the Special Judge, and when the whole of the unprotected property has been allotted in this way, the remaining creditors will get nothing.

No bonds at all will be issued in such cases.

Example—Suppose the total debt is Rs.3,90,000 made up of Rs.20,000 due to *A*, Rs.60,000 due to *B*, Rs.70,000 due to *C*, Rs.90,000 due to *D*, and Rs.1,50,000 due to *E*, in that order of priority ; and that the transfer value of the unprotected property is only Rs.2,00,000.

A would get a share of this unprotected property equal to $\frac{20.000}{2,00,000} = \frac{1}{10}$th.

B would get a share of this unprotected property equal to $\frac{60\ 000}{2,00,000} = \frac{3}{10}$ths.

C would get a share of this unprotected property equal to $\frac{70,000}{2,00,000}=\frac{7}{20}$ths.

D would get a share of this unprotected property equal only to $\frac{50,000}{2,00,000}=\frac{1}{4}$th.

E would get nothing at all.

II—In cases where there is both unprotected and protected property

In such cases the creditors whose debt ranks highest for priority will be given bonds as in rule 46 and the rest will be allotted shares in the unprotected property at their transfer value in order of priority. When the whole of the unprotected property has been allotted in this way, the remaining creditors will get nothing.

Example—Suppose the debt is exactly as in the example in Part I above, and that the transfer value of the unprotected property is Rs.2,00,000 and in addition there is protected property of which the instalment value is Rs.30,000.

The amount available for liquidation is thus the unprotected property to the value of Rs.2,00,000 *plus* bonds to the value of Rs.30,000=Rs.2,30,000 against debts of Rs.3,90,000.

A would get bonds to the value of Rs.20,000;

B would get the rest of the bonds, i.e. to the value of Rs.10,000, and for the rest of his dues of Rs.60,000 *minus* Rs.10,000=Rs.50,000 a share in the unprotected property of which the transfer value equals Rs.50,000, i.e. a share of $\frac{50,000}{2,00,000}=\frac{1}{4}$th.

C would get a share in the unprotected property equal to $\frac{70,000}{2,00,000}=\frac{7}{20}$ths.

At this stage unprotected property is left to the transfer value of only Rs.2,00,000 *minus* Rs.1,20,000= Rs.80,000.

D's dues are Rs.90,000, so he would get the rest of the unprotected property (i.e. $\frac{2}{5}$ths of the whole unprotected property) and nothing more.

E would get nothing at all.

III—In cases where there is only protected property

In such cases there is no property for transfer and only bonds equal in value to the instalment value of the protected property will be available for distribution among the creditors in order of priority of their dues. When all the bonds have been distributed the remaining creditors will get nothing.

Example—Suppose the debts are exactly as in the example in Part I above and the instalment value of the protected property is Rs.1,60,000.

A would get bonds to the value of Rs.20,000.

B would get bonds to the value of Rs.60,000.

C would get bonds to the value of Rs.70,000.

D would get bonds only to the value of Rs.10,000, although his dues are Rs.90,000.

E would get nothing at all.

Section 32. 48.—Notwithstanding anything in rules 46 and 47 if a share of the landlord's property has to be transferred the Collector shall give the creditors in the order of priority of their debts the option of having their debts satisfied by bonds or by a share in the landlord's unprotected property.

Sections 30 and 31. 49.—If the value of the bonds to be given to any creditor is not an exact multiple of the face-value of the bond of lowest denomination, the Collector shall either arrange that the debtor pays to the creditor the difference between the amount to be given to the creditor in bonds and the amount that can be paid in an exact number of bonds; or that the creditor pays into court the difference between the amount due to him and the next highest amount that can be paid in an exact number of bonds.

Example—If the face-value of the bond of lowest denomination is Rs.100 and if the creditor is entitled to payment in bonds to the value of Rs.1,033, then either the debtor must pay Rs.33 to the creditor who will then receive bonds for Rs.1,000, or the creditor must pay into court Rs.67 in cash and receive bonds for Rs.1,100.

Section 33. 50.—If the Collector decides to allot shares in particular properties to particular creditors, instead of allotting to each creditor a share of the whole of the landlord's unprotected properly, he shall calculate

the value, as defined in section 33, of each of the landlord's unprotected properties and the value, again as defined in section 33, of the share in the whole of the landlord's unprotected property allotted to each creditor and shall distribute shares in the landlord's particular unprotected properties accordingly.

NOTE—The value, as defined in section 33, is the transfer multiple fixed by the Collector under section 26(*b*) multiplied by the post-slump profits.

Example—Suppose that the debtor possesses three unprotected properties, the details of which are given below, and no protected property :

Name of property	Pre-slump profits	Post-slump profits	Transfer multiple	Instalment multiple
	Rs.	Rs.	Rs.	Rs.
X ..	10,000	7,000	21	5
Y ..	15,000	12,000	27	6
Z ..	8,000	7,500	20	5

Then the transfer values, instalment values and values as defined in section 33, of these three properties and of the whole of the debtor's property, are as given below :

Name of property	Transfer value	Instalment value	Value under section 33
	Rs.	Rs.	Rs.
X ..	2,10,000	35,000	1,47,000
Y ..	4,05,000	72,000	3,24,000
Z ..	1,60,000	37,500	1,50,000
Total ..	7,75,000	1,44,500	6,21,000

If the total debt is Rs.4,59,750 the share of these unprotected properties transferred is $\frac{4,59,750-1,44,500}{7,75,000-1,44,500}=\frac{3,15,250}{6,30,500}=\frac{1}{2}$.

The total of the bonds is to be given is Rs.72,250. If there are three debts Rs.1,49,750 to *A*, Rs.1,55,000 to *B* and Rs.1,55,000 to *C* in that order of priority, then

A gets bonds for Rs.72,250 *plus* a share equal to $\frac{1}{10}$th $(\frac{77,500}{7,75,000})$ of the debtor's property ;

B gets a share equal to $\frac{1}{5}$th $(\frac{1,55,000}{7,75,000})$ of the debtor's property ;

C gets also a share equal to $\frac{1}{5}$th of the debtor's property.

The values under section 33 of these three shares are

Rupees 62,100,
„ 1,24,200, and
„ 1,24,200.

Thus, as the value under section 33 of property *Y* is Rs.3,24,000, *A* might be given a share in property, *Y* of $\frac{62,100}{3,24,000} \times 16 = 3$ as. 1 pie and *B* and *C* might each be given a share of $\frac{1,24,200}{3,24,000} \times 16 = 6$ as. $1\frac{1}{2}$ pies in that property. The debtor would retain the whole of properties *X* and *Z* and an 8-pies share in property *Y*.

Section 40.

51.—The Collector shall distribute the amount to be paid in instalments by the landlord over his separate properties, as defined in rule 16, such as are left to him, in proportion to the land revenue, real or nominal, payable by him on account of those properties and shall declare that the amount allotted to each property shall be a charge on that property : provided that the Collector may, if he thinks fit, distribute the amount to be paid by the landlord over his separate properties, such as are left to him, in proportion to the instalment values of these properties.

Example—Suppose the landlord has been ordered to liquidate debt to the total of Rs.1,000 to Government by instalments and that he has three properties left to him, *A*, *B*, and *C* for which he pays sums of Rs.70, Rs.20, and Rs.10 respectively as land revenue, taking no account of slump remissions. Then, if the Collector distributes the amount due proportionately to the land revenue, the charge on property *A* will be R.700, that on property *B* Rs.200, and that on property *C* Rs.100.

Sections 27 and 28.

52.—The Collector shall calculate the amount that has to be paid each year along with the land revenue and cesses of each of the debtor's separate properties remaining with him by dividing the amount allotted to that property under the previous rule by the figure in column B of Appendix II corresponding to the number of years in which the debt has to be paid.

Sections 27, 28 and 29.

53.—The annual amount payable along with the land revenue and cesses of each of the debtor's separate properties shall be payable in instalments proportionate to the land revenue instalments on the date or dates on which the land revenue and cesses fall due. These instalments shall be held to be the instalments ordered under sections 27 and 28 and recoverable under section 29, and these dates shall be held to be the dates on which the instalments fall due.

Example—If the annual amount payable along with the land revenue of property *A* is Rs.1,600 and the land revenue of that property is payable as follows : 4 annas on 1st December, 4 annas on 1st January, 4 annas on 1st May and 4 annas on 1st June. Then the instalments are :

Rupees 400 payable on 1st December.

Ditto	1st January.
Ditto	1st May.
Ditto	1st June.

54.—The Collector shall finally prepare a Final Liquidation Award and give a copy to the landlord and to each creditor.

He shall also issue to each creditor a certificate showing—

(1) the amount by which his debt has been reduced by the Special Judge ;

(2) the amount which he has lost by the transfer of land, i.e. the difference between the transfer value of the share transferred to him and the value of that share calculated in accordance with the explanation to section 33.

CHAPTER IV

Liquidation of Public Debts

Section 21. **55.**—Public debts which are decreed by the Special Judge shall be included in the total debt to be liquidated under Chapter III.

Section 21. **56.**—Public debts which are not reported to the Special Judge in accordance with rule 5 fall into two classes—

(1) those which are due when the Collector prepares the Final Liquidation Award;

(2) those which will fall due after the Final Liquidation Award has been prepared, e.g. taqavi under Act XIX of 1883.

Section 21. **57.**—Public debts which fall under class (1) of rule 56 should not be included in the liquidation scheme but should be collected in the ordinary manner unless Government sanction their inclusion in the liquidation scheme and their collection by instalments. The Collector may however take their existence into consideration in fixing the instalment value of the debtor's property. If they are so large as to be likely seriously to affect the liquidation scheme, or if the land on which they are secured has to be transferred to a creditor, the Collector should delay passing final orders of liquidation till he has realized them.

Section 21. **58.**—Public debts which fall into class (2) of rule 56 should generally (with the exception of land revenue and irrigation dues which are not debts but recurring charges) be included in the debt to be liquidated under Chapter III unless they are so small that the debtor is willing to pay them at once or unless their liquidation would involve transfer of land to Government. In the latter case final orders of liquidation shall be postponed until they are paid.

CHAPTER V

THE COLLECTION OF THE INSTALMENTS

59.—The Collector, as soon as he has made the Final Liquidation Award, shall inform the Collector of each district in which the debtor's property is situated of the amount which the debtor must pay in instalments along with the land revenue and cesses of each of the debtor's separate properties situated in that district. Section 29.

60.—Sub-divisional officers will be responsible to the Collector for the collection of the amounts due in their sub-divisions. Section 29.

61.—Promptness in collecting instalments is of the greatest importance. In the majority of cases the annual payment will have been fixed at the largest amount which the Collector considers can safely be demanded. If there are, therefore, any arrears outstanding at the end of either the *kharif* or the *rabi* season it will be extremely difficult to collect these arrears without allowing future instalments to fall into arrears. Section 29.

62.—When two consecutive instalments have not been paid in full within six months of the date on which the second of them falls due the Collector shall report the matter to Government. Government shall decide whether the whole of the amount due by the debtor shall be recovered as an arrear of land revenue, or whether the Court of Wards shall assume charge of the debtor's property, or whether some other method of liquidating the arrear should be adopted. In making a report under this rule the Collector shall give a list of the whole of the debtor's property whether situated in his own or in other districts. Section 29.

63.—If the loss of produce in any season in any separate property (as defined in rule 5) of the debtor exceeds 6 annas in the rupee of the normal, the Collector of the district in which that property lies may reduce the instalment or instalments payable in Section 36.

that season along with the land revenue of that property according to the following scale :

Loss of produce in annas per rupee of the normal	Reduction in instalment or instalments in annas per rupee
Between 6 annas (exclusive) and 8 annas (inclusive)	4 annas.
Between 8 annas (exclusive) and 10 annas (inclusive)	8 ,,
Between 10 annas (exclusive) and 12 annas (inclusive)	12 ,,
More than 12 annas .. .	16 ,,

When there is a general remission or suspension of revenue, the Collector may order a general reduction of instalments. In all other cases each case must be considered on its merits, and the Commissioner's sanction taken before an instalment is reduced.

Example—Suppose that the annual payment to be made along with the land revenue of a certain mahal is Rs.1,600, and that the instalments are as follows :

Rupees 350 due on December 1.
,, 350 due on January 1.
,, 450 due on May 1.
,, 450 due on June 1.

Then if there was 9 annas loss in the *rabi* crop in that mahal each of the *rabi* instalments might be reduced by Rs.225.

Section 36.

64.—If any reduction is made under rule 63 in the amount payable in any season the Collector who made the reduction shall calculate the amount remaining to be paid, along with the land revenue of the property in which the crops failed, at the beginning of the next season as follows. If payments have been regularly made, Appendix II gives the amount of the debt itself outstanding, expressed as a multiple of the annual payment, corresponding to the number of annual payments which remain to be paid. On the next date on which an instalment falls due and on which the landlord has completed an exact number of annual payments since the liquidation order was passed, the amount due on that date can therefore be determined from this appendix. To this must be added the amount not paid owing to the reduction of the instalments under rule 63.

The number of years in which the total outstanding debt shall be paid off shall be determined in accordance with the principles of Chapter III, regard being had to the instalment value of the particular property the instalments relating to which were reduced.

Example—Suppose that in the example in rule 63 the annual instalment payable along with the land revenue of the property in which the crops have suffered is Rs.1,600, and that the first instalment ordered by the Collector under rule 40, 42 or 43 of Chapter III fell due on January 1, and that on January 1 next following the season in which the instalments were reduced, the landlord has still 10 complete annual instalments to pay. Then the amount due from him on that day is, from Appendix II, Rs.1,600×8·011 or Rs.12,818. (The figure 8·011 being taken from column B of Appendix II against 10 years.) Adding Rs.450 the amount not paid in the previous *rabi* the total amount due is Rs.13,268. This can be paid by 10 payments of $\frac{13,268}{8\cdot011}$=Rs.1,656. If the Collector considers that there is no objection to increasing the annual instalment to this amount then he shall order the landlord to pay this amount annually after January 1, i.e. Rs.362 on December 1 and January 1 and Rs.466 on May 1 and June 1. The amount due on December 1 immediately succeeding the *rabi* season in which the crop suffered will be the previous instalment of Rs.350. If the Collector does not consider that it is safe to increase the annual instalment he shall order the payment of the outstanding debt in 11 annual instalments of Rs. $\frac{13,268}{8\cdot643}$ or Rs.1,535. (The figure 8·643 being taken from column B of Appendix II against 11 years.)

Sections 37 and 38.

65.—If the annual instalment has to be altered either because the settlement has been revised or the land revenue altered, or because the debtor pays a lump sum towards his debt, or his circumstances deteriorate and he is unable to pay the instalment previously ordered, or they improve and he wishes to pay a larger annual instalment, the Collector shall proceed to calculate the future annual payments in accordance with the principles set forth in rule 64.

Example—Suppose that the instalment multiple applicable to a certain mahal is 6 and that the profits

when the instalment was fixed were Rs.1,000. Now if these profits are reduced by re-settlement to Rs.800 the instalment value of the mahal is reduced from Rs.6,000 to Rs.4,800. Suppose that there are 10 annual payments of Rs.450 each remaining to be paid when the new settlement comes into force then the amount of the debt itself outstanding is Rs.3,605 (Rs.450×8·011). The maximum annual payment that can be paid is the instalment value divided by 13·294, i.e. Rs. $\frac{4,800}{13·294}$=Rs.361. Dividing 361 into the remaining debt Rs.3,605 (see rule 38) the result is 9·986 which lies between 9·832 and 10·391 in column B of Appendix II, the figures corresponding to 13 and 14 years in column A. So that the outstanding debt will not quite be paid off in 13 years. The Collector should therefore order that the outstanding debt be liquidated in 14 annual payments of Rs.347 (Rs. $\frac{3,605}{10\ 391}$).

Sections 37 and 38.

66.—If the annual payments have to be altered on account of the settlement of, or an alteration in, the land revenue of the debtor's property or a portion of his property then the amount of the annual payment to be made along with the land revenue of each separate property shall be determined by the Collector of the district in which that property is situated.

Sections 37 and 38.

67.—If the annual payments have to be altered on account of a change in the circumstances of the debtor the alteration shall be made by the Collector of the district in which the liquidation proceedings were carried out.

Section 41.

68.—If the debtor pays a lump sum towards the liquidation of his debt he shall declare how he wishes that sum distributed over the charges on his separate properties, and the necessary alteration in the amount payable along with the land revenue of each of these properties shall be made by the Collector of the district in which that property is situated.

Example—Suppose that in the example in rule 65 above there has been no re-settlement but the landlord pays Rs.3,000 towards the liquidation of his debt. The amount of the debt itself then outstanding would be Rs.3,605 less Rs.3,000=Rs.605.

The Collector should in this case leave the number of years in which the remaining debt is to be liquidated largely to the debtor provided that the total period of liquidation is not increased. If the debtor chooses to liquidate it in two years, he would have to pay Rs. $\frac{605}{1 \cdot 879}$=Rs.322 each year. On the other hand if he wished to repay the balance in 10 years, the annual instalment would be Rs.$\frac{605}{8 \cdot 011}$=Rs.76.

69.—In altering the number of annual payments (under this chapter only) the Collector is empowered to extend the total period of payment beyond 20 years.

CHAPTER VI

LIQUIDATION BY MORTGAGE

Section 25.

70.—The period of mortgages granted under section 25 shall be an exact number of years and shall begin one month before the first instalment of the *kharif* rents falls due, or one month before the first instalment of the *rabi* rents falls due, and shall end one month before the first instalment of the *kharif* rents falls due or one month before the first instalment of the *rabi* rents falls due.

Section 25.

71.—Any person who applies under section 25 to be given a mortgage shall state in his application the property of which and the period for which he is prepared to take a mortgage. If the period applied for is more than 20 years or not in conformity with rule 70 the Collector shall reject the application.

Section 25. First proviso.

72.—If the Collector does not reject the application under the previous rule he shall, after hearing the applicant and the debtor, prepare a statement of the post-slump profits on the date of the application, of the property of which a mortgage has been applied for and of the debtor's entire property. If the post-slump profits of the property applied for exceed three-quarters of the post-slump profits of the debtor's entire property the Collector shall reject the application.

Section 25. Second proviso.

73.—The Collector will calculate the value of a mortgage with possession as follows :

(i) He will multiply the post-slump profits of the property to be mortgaged by the *standard* instalment multiple (*see* rule 22) and so obtain the instalment value.

NOTE—The standard instalment multiple will not be varied.

(ii) He will take the figure in column B of Appendix II opposite the number of years in column A for which the mortgage is to be taken, and multiply it by 0·15.

(iii) He will then multiply the instalment value from (i) above by the figure obtained from (ii) above and the result, calculated to the nearest whole rupee, will be the value of the mortgage applied for.

Example—(i) If the post-slump profits of the property to be mortgaged are Rs.1,000, and the *standard* instalment multiple is 7, the instalment value will be Rs.7,000.

(ii) If the application is for a mortgage of 10 years; the figure opposite 10 in column B of Appendix II is 8·011. The result of multiplying this by 0·15 is 1·2016.

(iii) Multiplying the instalment value of Rs.7,000 by 1·2016, the value of the mortgage will be Rs.8,411.

74.—If the value of the mortgage as calculated under rule 73 exceeds the value of the outstanding debt to be paid by the applicant the Collector shall reject the application. Section 25. Second proviso.

75.—If the application is not rejected the Collector shall grant the mortgage, put the mortgagee in possession, pass an order stating the amount of the debt and the number of years for which the mortgage was given and give a copy to the applicant and a copy to the debtor. Section 25.

76.—Anyone whose application for the grant of a mortgage has been rejected under rules 71, 72 or 74 may at any time submit a modified application.

77.—To obtain the amount due to the mortgagee after the mortgage has been in existence for an exact number of years, the Collector shall proceed as follows: Section 25. Third and fourth provisos.

(i) He will take from Appendix II the figure in column B opposite the number of years the mortgage has still to run.

(ii) He will then multiply the amount for which the mortgage was originally given by the figure from (i).

(iii) He will then take from Appendix II the figure in column B opposite the number of years for which the mortgage was originally given, and divide this into the figure in (ii).

Example—Suppose the original debt paid off under section 25 by the mortgagee was Rs.10,000 and the mortgage was given for 20 years. To find the amount of the original debt still outstanding after nine years the Collector would proceed as follows:

(i) The mortgage has 11 more years to run. The figure in Appendix II in column B opposite 11 years is 8·643.

(ii) The original mortgage was for Rs.10,000. Multiplying this by 8·643, the result is Rs.86,430.

(iii) The figure in Appendix II in column B opposite 20 years is 13·294.

The amount of the debt itself still due to the mortgagee is thus Rs.10,000 $\times \frac{8 \cdot 643}{13 \cdot 294}$ = Rs.6,501.

Section 25. Third and fourth provisos.

78.—If during the currency of the mortgage the land revenue of the area mortgaged is altered, either by an alteration in the remission for the fall in prices or otherwise, the Collector shall in accordance with rule 77 determine the amount due under the mortgage at the beginning of the season in which the alteration in the revenue comes into force, re-calculate the post-slump profits of the area mortgaged and determine the future period of the mortgage in accordance with the principles of rule 73.

Example—Suppose that the debt is Rs.8,411, the post-slump profits Rs.1,000 and the standard instalment multiple 7, then according to rule 73 the debt will be paid off by a mortgage for 10 years. Suppose that from the beginning of the fourth year the remission for the fall in prices is decreased and the post-slump profits are thereby increased by Rs.200. The amount due at the beginning of the fourth year is Rs.8,411 $\times \frac{5 \cdot 947}{8\ 011}$ or Rs.6,244. To obtain the period in which this debt will be liquidated divide the amount due by 0·15 times the new instalment value. The result is $\frac{6,244}{0\ 15 \times 8,400}$ or 4·956. The nearest figure to 4·956 in column B of Appendix II is 5·200 which corresponds to 6 in column A. So the future period of the mortgage must be fixed at 6 years.

Section 25. Third proviso.

79.—If any part of the revenue of the area mortgaged is remitted because of a failure of the crop the Collector shall add the corresponding loss in post-slump profits to the amount that is due under the mortgage at the next date on which the mortgage has been in existence for an exact number of years, and re-determine the future period of the mortgage in accordance with the principles of rule 73.

Example—Suppose that in the example in rule 78 there is a crop failure in the fifth year (that is in the second year of the revised mortgage) and that rent and revenue in the *rabi* season of that year are remitted

to the extent of 12 annas in the rupee. At the beginning of the sixth year (when the revised mortgage will have four more years to run out of its six years) the amount still due under the mortgage is Rs.6,244 × $\frac{3 \cdot 609}{5 \cdot 200}$ or Rs.4,260. (The figures of the revised and not of the original mortgage have to be used as it is the revised mortgage that is in operation). If the revenue instalments are equal in *kharif* and *rabi*, the loss caused by the remission is Rs.$\frac{1}{2}$ × 1,200 × $\frac{3}{4}$ = Rs.450. The total amount outstanding at the beginning of the sixth year is therefore Rs.4,710. This can be liquidated in four more years [$\frac{4,710}{8,400 \times 0 \cdot 15}$ = 3·738 which is nearest the figure 3·609 in column B of Appendix II corresponding to 4 in column A.]

80.—If the debtor pays any sum under section 41 the Collector shall determine the future period of the mortgage, if any, in accordance with the principles of the above rules. **Section 41.**

Example—Suppose that in the seventh year of the mortgage in the example in rule 79 above the mortgagor pays Rs.1,000 towards the liquidation of his debt. Then the amount due at the end of the seventh year, when two more years out of the four years of the revised mortgage have still to run, is Rs.4,710 × $\frac{1 \cdot 879}{3 \cdot 609}$ —1,000 or Rs.1,452. This will be liquidated in one more year [$\frac{1,452}{0 \cdot 15 \times 8,400}$ = 1·152.]

81.—If any part of the property mortgaged is under settlement, the Settlement Officer shall report to the Collector the net assets of that property which he has accepted for assessment, and the Collector shall treat these assets as the post-slump profits of that property and re-calculate the future period of the mortgage in accordance with the principles of these rules. **Section 25. Fourth proviso.**

82.—The Collector shall give a copy of any order altering the period of the mortgage to the debtor and to the mortgagee.

CHAPTER VII

MISCELLANEOUS

Section 7. **83.**—The Collector shall not sanction any transfer or lease under sub-section (2) of section 7 if he considers that it is against the interest of the creditors.

Section 7. **84.**—Before the liquidation scheme has been completed the Collector shall sanction no transfer of property under sub-section (3) of section 7 which will prejudice the interest of the creditors collectively or individually.

Section 7. **85.**—After the liquidation scheme has been completed the Collector shall not sanction under sub-section (3) of section 7 any transfer which will in his opinion render the collection of the instalments more difficult. Under section 40 the payment of instalments remains a charge on the property transferred. This should be pointed out to the transferee when the Collector sanctions a transfer, and he should if possible be induced to pay into court the amount of the charge on the property transferred. This amount can be calculated from Appendix II.

Section 54(1). **86.**—All Assistant Collectors of the first class holding charge of a sub-division are hereby empowered to receive applications under section 4 of the Act.

Section 54(1). **87.**—The powers of the Collector under Chapter V of the Act with respect to cases in which—

(1) the land revenue, nominal or actual, of the property reported by the Special Judge under section 19 is less than Rs.5,000 (without deducting the remission for the fall in prices) and

(2) the total of the decrees passed by the Special Judge under section 12 is less than Rs.1,00,000,

are hereby conferred on all Assistant Collectors empowered to receive applications under rule 86 above.

Section 54(1) **88.**—All the powers of the Collector under the Act with respect to cases mentioned in rule 87 are hereby conferred on all Assistant Collectors empowered under that rule.

89.—If the Collector considers that it is desirable to confer enhanced powers on any Assistant Collector he should apply accordingly to Government through the Commissioner. Section 54(1).

90.—On receipt of the report of the Special Judge under section 19 the Collector shall, if the land revenue (without deducting the remissions for the fall in prices) payable by the debtor in any other district is greater than the land revenue payable by him in the district in which the application under section 4 was made, refer the case to the Board of Revenue for orders whether he should proceed with liquidation himself or whether the case will be transferred to another district. Section 58.

91.—The percentage to be deducted from the price of any land sold under section 34 shall be one-quarter of one per cent. Any amount so deducted will be credited to Government under head XXXVB—Miscellaneous. Section 34.

92.—The interest due on a bond given under section 27 or section 28 shall be payable to the person legally in possession of it on the presentation of the bond at the headquarters treasury of the district the Collector of which passed orders for liquidation, or at such other treasury as may be ordered by Government. Sections 30 and 31.

93.—For the purposes of awarding costs under sub-section (7) of section 14 of the Act in respect of a claim decided by the Special Judge, legal practitioners' fees shall be taxable at the rate prescribed for the taxation of legal practitioners' fees in suits by the General Rules (Civil) of the High Court of Judicature at Allahabad or the Oudh Civil Rules, as the case may be. Sections 14 (7) & 54(1).

APPENDIX I

Standard Transfer Multiples *

MEERUT DIVISION

DEHRA DUN DISTRICT

Tahsil	Settlement Circles	Standard transfer multiple
Dehra ..	Home	29
	Dehra Suburban	
	Dehra Plateau	
	Submontane	26
	Hill tract	
	Jakhan Canal	
	Marsh	
	Boulder	25
	Song Khadar	
	Nagsidhsuswa	
	River tract	23

SAHARANPUR DISTRICT

Roorkee ..	Manglaur II	24
	Manglaur IV	
	Roorkee V	
	Jwalapur III	
	Roorkee VI	
	Jwalapur IV	
	Roorkee VII	
	Manglaur XI	22
	Jwalapur XI	
	Jamalpur VII	
	Manglaur X	
	Manglaur III	
	Jwalapur V	
	Bhagwanpur III	
	Roorkee VIII	
	(GROUP D)	
	Jwalapur I	
	Jwalapur VIII	
	Bhagwanpur IV	
	Jwalapur II	
	Jwalapur VI	

*These standard transfer multiplies are for revenue-paying areas only. In the case of revenue-free areas the standard transfer multiples are:

(*a*) in permanently settled areas 12½ per cent. above the multiples shown in this appendix.

(*b*) in temporarily settled areas 25 per cent. above the multiples shown in this appendix.

SAHARANPUR DISTRICT—(*concld.*)

Tahsil	Settlement Circles	Standard transfer multiple
Roorkee—(*concld.*)	Roorkee I	
	Bhagwanpur I	
	Jwalapur IX	17
	Bhagwanpur II	
	Manglaur I	
Deoband ..	Deoband III and V	20
	Rampur VII	
	Nagal I, II and VI	16
	Nagal IV	14
	Deoband IV	
Nakur ..	Nakur I	
	Sultanpur VIII	25
	Sarsawa II	
	Gangoh II	
	Sultanpur IV, V, VI and VII ..	
	Nakur III	22
	Sarsawa I and III	
	Gangoh III and IV	
	Sultanpur I, III and IX	
	Sarsawa V	
	Sultanpur II	19
	Nakur V	
	Gangoh V	
Saharanpur ..	Saharanpur I and III	
	Muzaffarabad I and VI	26
	Fyzabad IV and VI	
	Haraura II	
	Muzaffarabad II, III and V ..	
	Haraura I	20
	Fyzabad II	
	Fyzabad I and V	
	Saharanpur II	
	Haraura ~~II~~ and III and IV ..	13
	Muzaffarabad IV	
	Fyzabad III	
	MUZAFFARNAGAR DISTRICT	
Jansath ..	Jauli Jansath Canal	
	Khatauli Canal	
	Bhokerheri Canal	27
	Bhumosambalhera Canal	
	Bhokerheri Bhoor	
	Jauli Jansath Bhoor	
	Khatauli Bhoor	
	Khatauli Nagar	25
	Bhokerheri G. S. T.	
	Jauli Jansath Nagar	

MUZAFFARNAGAR DISTRICT—(*concld.*).

Tahsil	Settlement Circles	Standard transfer multiple
Jansath—(*concld.*).	Bhumosambalhera G. F. T. ..	
	Bhumosambalhera G. S. T. ..	
	Khatauli Kali	22
	Bhumosambalhera Bhoor	
	Bhokerheri G. F. T.	
Kairana ..	Shamli Canal I, II and III ..	
	Jhinjhana Canal I and II	
	Kairana Canal II	27
	Thanabhawan Canal III	
	Shamli Northern Krishna	
	Thanabhawan Northern Krishna ..	
	Jhinjhana Katha Jumna I ..	
	Kairana Katha Jumna I	24
	Bidhauli Katha Jumna I	
	Kairana Katha Jumna II	
	Bidhauli Katha Jumna II ..	22
	Jhinjhana Katha Jumna II ..	
Muzaffarnagar	Baghra Canal	
	Baghra Hindan	
	Purchhapar Canal	
	Muzaffarnagar Canal	
	Charthawal Canal	28
	Purchhapar G. F. T.	
	Muzaffarnagar Kali	
	Purchhapar Bhoor	
	Muzaffarnagar Bhoor	
	Gordhanpur Special Khadir ..	
	Purchhapar G. S. T.	25
	Charthawal Hindan	
	Charthawal Kali	
	Gordhanpur G. S. T.	22
	Puchhapar Kali	
	Gordhanpur G. S. T. (Non-alluvial) ..	
Budhana ..	Kandhla Canal I, II and III ..	
	Budhana Canal	
	Shikarpur Canal	
	Shikarpur Hindan	23
	Budhana Well	
	Shikarpur Well	
	Kandhla Well	
	Budhana Hindan	25
	Shikarpur Kali	
	Budhana Kali	22

MEERUT DISTRICT

Tahsil	Settlement Circles	Standard transfer multiple
Meerut ..	Meerut Town Circle	25
	Circles III, IV and Central ..	23
	I and II Circle, Meerut	20
Sardhana ..	Pargana Barnawa, Circles I, II and III	22
	Pargana Sardhana, I, II and III ..	
	Pargana Daurala, I, II, III and IV ..	
Ghaziabad ..	Pargana Jalalabad, Circles I, II, III, IV and V.	23
	Pargana Dasna, Circles I, II, III, IV and V.	
	Pargana Loni, Circles I and II ..	
	Pargana Loni, Circles III and IV ..	21
Baghpat ..	Pargana Baraut, I	24
	Pargana Kotana, II	
	Pargana Chaprauli, I	
	Pargana Baghpat, I(*a*) and I(*b*) ..	
	Pargana Baraut, II and III ..	23
	Pargana Kotana, II and III ..	
	Pargana Chaprauli, II	
	Pargana Baghpat, II(*a*), II(*b*) and III	
	Khadar	19
Mowana ..	Pargana Hastnapur, I, II and III ..	23
	Pargana Rithore, I, II and III ..	
Hapur ..	Pargana Garh, I	23
	Pargana Pooth, I	
	Pargana Sarawa, I	
	Pargana Hapur, I and II	
	Pargana Garh, II and III	21
	Pargana Pooth, II and III ..	
	Pargana Sarawa, II and III ..	
	Pargana Hapur, III and IV ..	

BULANDSHAHR DISTRICT

Bulandshahr ..	Siana East	31
	Ganges Canal	
	Central	
	Kali	
Anupshahr ..	Ganges Canal	
	Well	
	Usar	
Khurja ..	Ganges Canal I	
	Ganges Canal II	
	Mat Branch	
	Jewar Distributary	
Sikandrabad ..	I	
	II	

BULANDSHAHR DISTRICT—(*concld.*)

Tahsil	Settlement Circles	Standard transfer multiple
Bulandshahr ..	Chhoiya	28
Anupshahr ..	Nim	
	Kharon	
Khurja ..	Patwaha	
Bulandshahr ..	Nim	23
Anupshahr ..	Ganges Bank	
Khurja ..	East Pahasu	
	Jamna Khadir	
Shamdabad ..	III, IV, V, VI	

AGRA DIVISION

ALIGARH DISTRICT

	Koil, I and II	29
Sikandra Rao..	Sikandra Rao, I and III	
Hathras ..	Hathras, I	
Atrauli ..	Atrauli, I, II, III, IV and V ..	
	Koil, III, IV, V, VI and VII ..	
Sikandra Rao..	Sikandra Rao, II and IV	
Hathras ..	Hathras, II and III	
Khair ..	Khair, I	
Iglas ..	Iglas, I and II	26
Atrauli ..	Atrauli, VI	
Khair ..	Khair, II, III, IV and V	

MUTTRA DISTRICT

Muttra ..	Muttra Canal, I and II Main well ..	24
Chhata ..	Chhata Canal, I and II	
	Kosi Canal, I and II	
Mat ..	Mat Canal	
Sadabad ..	Sadabad Canal..	
	Sadabad Well, I	
	Mahaban Canal	
Muttra ..	N. W. Well	23
Chhata ..	Chhata Well	
	Kosi Well	
Mat ..	Mat Well	
Sadabad ..	Sadabad Well, II and III	
	Mahaban Well	
Muttra ..	Jumna	22
Chhata ..	Jumna-Chhata	
	Jumna-Kosi	
Mat ..	Jumna	
Sadabad ..	Jumna-Sadabad	
	Jumna-Mahaban	

AGRA DISTRICT

Tahsil	Settlement Circles	Standard transfer multiple
Agra	City Circle	35
	Suburban Circle	28
	Canal Circle	
	Dabar Canal	22
	Khadir Circle	
Itmadpur	Upland A and B Circles	30
	Ravine A Circle	
	Upland C Circle	27
	Ravine B Circle	
	Ravine C Circle	24
Firozabad	Upland A	41
	Upland B	35
	Ravine Circle	25
Bah	Chambal Circle	33
	Central Circle	
	Jamna Circle	
Fatehabad	Upland A Circle	28
	Jamna A Circle	
	Upland B Circle	26
	South-west Circle	
Khairagarh	Doab Circle	27
	Ban Circle	21
	Dang Circle	18
Kiraoli	Canal Circle	27
	Khari Nadi Circle	21
	Dabar Circle	18

MAINPURI DISTRICT

Mainpuri	Mainpuri, I and II	33
	Kuraoli, I, II and III	
	Ghiror, I and II	
	Mainpuri, III	31
	Kuraoli, IV	
Bhongaon	Bhongaon, I, IV, V(*a*) and V(*b*)	31
	Alipur Patti, II. IV and V(*a*)	
	Kishni, I and IV	
	Bewar, III, IV and V(*b*)	
	Bhongaon, II and III	29
	Kishni, II and III	
	Alipur Patti, III and IV(*a*)	
	Bewar, IV(*a*)	
Karhal	Karhal Barnohal, I and II	35
	Karhal Barnohal, III and IV	27
Shikohabad	Shikohabad, I and II	34
	Shikohabad, III IV and V	32
Jasrana	Mustafabad, I and II	32

ETAH DISTRICT

Tahsil	Settlement Circles	Standard transfer multiple
Etah ..	Kali Nadi, I and II	
	Central, I and II	
	Suburban	
	Isan Nadi, I and II	
	Bhur, I and II	
	Dumat, I and II	
	Circle, I, II and III	34
	Kali Nadi	
Jalesar ..	Eastern	
	South-eastern	
	North-eastern	
	Central, I and II	
	Brackish Water	
Qasganj ..	Pargana Bilram—Northern, I, II and III.	
	Suburban, Pargana Bilram ..	
	South-west, Pargana Bilram ..	
	South-east, Pargana Bilram ..	
	Pargana Sirpura—Northern ..	
	Western ..	
	Central ..	
	Pargana Sahawar—Mohanpur ..	
	Central ..	30
	Western ..	
	Sahawar ..	
	Pargana Bachlana—Upland I and II	
Aliganj ..	Pargana Azamnagar—Bilsarh ..	
	Dumat ..	
	Central ..	
	Western ..	
	Pargana Berna—Upland, I and II ..	
	Pargana Patiali—Suburban ..	
	Dumat ..	
Qasganj ..	Pargana Bilram—Burhganga Bhur ..	
	Kali Nadi, I and II	
	Pargana Sirhpura—Eastern ..	
	Kali Nadi, I and II	
	Pargana Sahawar—Burhganga Bhur ..	27
	Kali Nadi, I and II	
	Pargana Pachlana—Upland, III ..	
Aliganj ..	Pargana Azamnagar—Burhganga Bhur	
	Kali Nadi Bhur	
	Pargana Patiali—Patiali Bhur ..	

ETAH DISTRICT—(*concld.*)

Tahsil	Settlement Circles	Standard transfer multip
Qasganj ..	Pargana Mai—North-West ..	26
	North-East ..	
	Southern	
	Alluvial	
	Pargana Faizpur Padaria—Western ..	
	Burhganga	
	Ganges ..	
	Alluvial ..	
	Pargana Soron—Upland I and II ..	
	Burhganga Valley, I..	
	Burhganga Valley, II	
	Pargana Sahawar—Burhganga Valley, I.	
	Burhganga Valley, II.	
	Pargana Pachlana—Tarai ..	
Aliganj ..	Pargana Azamnagar—Burhganga, I and II,	
	Kali Nadi, I and II	
	Pargana Berna—River, I and II ..	
	Pargana Patiali—River	
	Pargana Nidhpur—Danda, I and II ..	
	Burhganga ..	
	Flooded, I and II ..	
	Alluvial ..	

ROHILKHAND DIVISION

BAREILLY DISTRICT

Nawabganj ..	Circles nos. I and V	20
	Circle no. II	
	Circles nos. III and IV	18
Baheri ..	Circle Richha no. I, Chaumahla no. I, Sirsanwan and Kabar.	22
	Circle Richha no. II and Chaumahla no. II.	19
	Circle Richha no. III and Chaumahla no. III.	17
Aonla ..	Circle Sirauli nos. III and IV, Aonla nos. IV and V, Sanha no. I and Ballia no. I.	24
	Sirauli no. I, Aonla no. I, Sanha no. II and Ballia no. III.	22
	Sirauli no. II, Aonla II and III, Sanha III, Ballia II.	18

BAREILLY DISTRICT—(*concld.*)

Tahsil	Settlement Circles	Standard transfer multiple
Faridpur	.. Circles nos. III, V and VI.. ..	22
	Circles nos. I and IV	21
	Circle no. II	
Bareilly	.. Circles nos. III, V, VI and nos. I, II of Mirganj.	25
	Circles nos. I, IV, VII and no. III of Mirganj.	24
	Circle no. II	23
	BIJNOR DISTRICT	
Bijnor	.. Circles 1, 9, 11, 12	34
	Circles 2, 7, 10, 13	31
	Circles 3, 14	
	Circles 5, 6, 8	
	Circle no. 15, Alluvial	14
Dhampur	.. Dhampur Circle 1	28
	Nehtour Circles 1, 2	
	Sheohara Circles 3, 4	
	Budpur Circles 1 and 2	
	Dhampur Circles 2, 7	
	Seohara Circles 1, 5	
	Dhampur Circles 4, 5, 9, 10 ..	
	Seohara Circle 2	
	Dhampur Circles 3, 8	26
	Dhampur Circle 6	
	Budpur Circle 3	
Najibabad	.. Kiratpur Circle 2	2
	Najibabad 1	
	Akbarabad 1, 2, 3	
	Kiratpur 1, 4	
	Najibabad 3, 4..	
	Kiratpur 3, 5	
	Najibabad 2, 6	
	Najibabad 5, 8	
	Najibabad 7	20
	Kiratpur 6	
Nagina	.. Nagina 2, 3, 4 (Non-Alluvial) ..	30
	Afzalgarh Circle 4(6)	
	Nagina Circle 1	26
	Budhapur Circles 1 and 2	
	4 (Non-Alluvial)	
	Afzalgarh 1, 2, 3, 5	
	Badhapura 3(*a*), (*b*), (*c*)	
	Afzalgarh Circle 4(*a*)	
	Pargana Nagina 4 (Alluvial) ..	16
	Badhapura 4 (Alluvial)	

BUDAUN DISTRICT

Tahsil	Settlement Circles	Standard transfer multiple
Budaun ..	1st Dumat	24
	2nd Dumat	
	Ujhani, 1st Dumat	
	Ujhani, 2nd Dumat	
	Alluvial	
	Bankati	22
	Khadir	
	Bhur	19
Sahaswan ..	Dumat	18
	1st Khadir	
	Bela	
	Bhur	17
	2nd Khadir	
	Alluvial	
Bisauli ..	Dumat	20
	Salaisi Dumat	
	1st Dumat	
	2nd Dumat	
Dataganj ..	Dumat	22
	Bankati	
	Alluvial	
	Matiyar	19
	Bankati	
	Bhur	
	Khadir	
	Alluvial	
Gunnaur ..	Khadir Bankati	20
	Bela	
	1st Khadir	
	Khadir Dumat	
	Khadir Bhur	
	Alluvial	
	2nd Khadir	
	Bhur	
	Alluvial	
	MORADABAD DISTRICT	
	Moradabad, III, IV, VI	24
	Bilari, III, VI, VII, IV	
	Sambhal, III, V, IV	
	Amroha, X, II, VI, V, XI, III ..	
	Hasanpur, VIII, IX	
	Thakurdwara, I, II, III, V ..	

MORADABAD DISTRICT—(*concld.*)

Tahsil	Settlement Circles	Standard transfer multiple
	Moradabad	21
	Bilari	
	Sambhal, VI, VII	
	Amroha, IX, VIII	
	Hasanpur, VI, II, III, IV, V, VII ..	
	Thakurdwara, IV-A, IV-B, VI ..	
	Moradabad, VIII, I, V, VII, II ..	20
	Bilari, I, II, V	
	Sambhal, VIII, I, IX, II	
	Amroha, XII, I, IV, VII	
	Hasanpur, I	
	Thakurdwara	

SHAHJAHANPUR DISTRICT

Shahjahanpur ..	Rasgawan and Remainder ..	25
	Khanant Valley, Sukheta Valley, Simari and Remainder.	24
	Garai North, Garai South and Remainder.	23
Powāyan ..	Baragaon, Powayan, Nahil Central, Gola and Abad North.	22
	Abad South, Nahil Khanant, Golarya, Nahil Jungle and Banda.	
	Viran Jukhna, Viran forest, Bhainsi Sanwat, Gomti and Sanwat Khanant.	21
Jalalabad ..	Bhur Jalalabad, Bhur Chauki, Remainder and Allahganj.	25
	Tarai Umarsandh and Remainder Tarai.	23
	Bankatiganj Khadar and Remainder Bankati.	21
Tilhar ..	Tarai—Tilhar	21
	Garra—Jalalpur	
	Domat—Nirgohi	
	Bahgul—Jalalpur	20
	Niranpur Katra	
	Kaimnau—Nirgohi	
	Ramganga—Khera Bajhera ..	
	Bhur—Tilhar	
	Bahgul—Khera Bajhera	
	Bhur— Ditto	

PILIBHIT DISTRICT

Tahsil	Settlement Circles	Standard transfer multiple
Pilibhit	.. Circles Pilibhit Suburban I and Jahanabad I.	21
	Circles Pilibhit II and Jahanabad II.	20
	Pilibhit III and IV and Jahanabad III and IV.	19
Bisalpur	.. Circles I and III	21
	Circle II	20
Puranpur	.. Roster Circles IV, VI, VII ..	20
	Roster Circles II and III	19
	Roster Circles, I, V, VIII and IX ..	

ALLAHABAD DIVISION

FARRUKHABAD DISTRICT

Farrukhabad	.. Bangar Ordinary, I and II class ..	31
	Mixed Kali Nadi, I and II class ..	
	Bangar Suburban, I and II class ..	
Kaimganj	.. Bangar Suburban Circle, I and II class.	
	Mixed Suburban Circle, I and II class.	
	Bangar Ordinary, I and II class ..	
Kanauj	.. Mixed Esan Nadi, I and II class ..	
	Bangar, I and II class	
	Mixed Kali Nadi Circle	
Chhibramau	.. Suburban Circle	
	Ordinary Bangar Circle I	
Farrukhabad	.. Tarai Middle Suburban, I and II class	25
	Tarai Middle Ordinary, I and II class.	
	Mixed Ganges Circle Papar ..	
	Ordinary Upland, I and II class ..	
Kaimganj	.. Tarai Middle Suburban Circle ..	
	Tarai Middle Ordinary Circle ..	
	Mixed Ordinary Circle, I and II class	
Kanauj	.. Kachcha, I and II class	
	Mixed Ganges Circle	
Chhibramau	.. Ordinary Bangar Circle II ..	
	Mixed Kali Nadi Circle, I and II ..	
	Mixed Esan Nadi Circle, I and II ..	
Farrukhabad	.. Alluvial Ganges, I and II class ..	16
	Alluvial Ramganga, I and II class ..	
Kaimganj	.. Alluvial, I and II class	
Kanauj	.. Alluvial, I and II class	

ETAWAH DISTRICT

Tahsil	Settlement Circles	Standard transfer multiple
Etawah	Pachar Circle	27
	Ghar Circle (Sirsa Doab)	
	Patti Kamait	24
Bharthana	Pachar Circle	28
	Ghar Circle	25
	Chakarnagar Circle	23
	Sahson Circle	22
Bidhauna	Circle I	27
	Circle II	25
Auraiya	North I and II and South I and II.	28
	Ilaqas Bhareh and Sandaus	
	Kharka Circle	23

CAWNPORE DISTRICT

Akbarpur	Red Loam I	29
	Usar Dumat I	
	Rind I	25
	Rind II	
	Dumat I	
	Red Loam II	
	Usar Dumat II	
	Sengur	24
	Dumat II	
Bilhaur	Usar Dumat I, Sheorajpur	26
	Bangar Dumat I	
	Swarup I	
	Ganges Esan Doab	
	Red Loam I	
	Stiff Dumat I	
	Usar Dumat I, Bilhaur	25
	Usar Dumat II	
	Bangar Dumat II	
	Swarup II	
	Red Loam II	
	Stiff Dumat I	
	Esan Sand	
	Ganges Cliff	
Bhognipur	Dumat Wet I	30
	Sengur	
	Dumat Dry	
	Dumat Wet II	
	Jumna	25

CAWNPORE DISTRICT—(*concld.*)

Tahsil	Settlement Circles	Standard transfer multiple
Cawnpore	Suburban	33
	Urban	
	Ganges Cliff	31
	Dumat North I	
	Dumat South	
	Dumat North II	
	Red Soil I	
	Alluvial	
	Ganges Pando Doab	
	Southern	
	Red Soil II	30
Derapur	Dumat I	35
	Dumat II	30
	Rind I	
	Rind II	
	Usar Dumat I	
	Usar Dumat II	
	Dumat Wet I	
	Sengur North	
	Sengur South	26
	Dumat Dry	
	Dumat Wet II	
Ghatampur	South I	30
	South II	
	Ganges Pando Doab II	
	Dumat Wet I	
	Dumat Wet II	29
	Dumat Dry	
	Nou	
	Jumna	
	Alluvial	

FATEHPUR DISTRICT

Fatehpur	Fatehpur Circle no. I	18
	Fatehpur Circle no. II	
	Fatehpur Circle no. IV (Non-Alluvial)	
	Fatehpur Circle no. IV (Alluvial)	
	Haswa Circle no. I	
	Muttour Circle no. II	
	Muttour Circle no. II (Alluvial)	

FATEHPUR DISTRICT—(*concld.*)

Tahsil	Settlement Circles	Standard transfer multiple
Fatehpur—(*concld.*)	Fatehpur Circle no. III	
	Haswa Circle no. II	
	Haswa Circle no. III (Alluvial)	
	Ghazipur Circle no. I	14
	Ghazipur Circle no. II	
	Ghazipur Circle no. III (Alluvial)	
	Muttour Circle no. I	
	Ayah-Shah	
Khajuha ..	Kora Circle no. I	
	Kora Circle no. II (Alluvial)	
	Bindki Circle no. I	
	Bindki Circle no. II	27
	Tappa-Jar Circle no. I	
	Tappa-Jar Circle no. I (Alluvial)	
	Kotiya-Gunir Circle no. I	
	Kora Circle no. II	
	Tappa-Jar Circle no. II	
	Kotiya-Gunir (Alluvial)	
	Bindki Alluvial	15
	Kora Circle no. III	
Khaga ...	Hathgaon Circle no. I	32
	Hathgaon Circle no. II	
	Kotila Circle no. I	
	Kotila Circle, Alluvial	28
	Dhata Circle no. I	
	Dhata Circle no. II	
	Ekdala Circle no. I	
	Hathgaon Circle no. III	
	Ekdala Circle no. II	24
	Ekdala Circle no. III	
	ALLAHABAD DISTRICT	
Chhail ..	Circles IV, VI and VII	33
	Circles I, II and V	30
	Circles III, VIII and IX	26
Sirathu ..	Circle I, pargana ~~Kaya~~ Kara ..	29
	Circle II, pargana ~~Kaya~~ Kara ..	26
Manjhanpur ...	Circle I, pargana Karari	32
	Circle I, pargana Atherban ..	
	Circle II, pargana Karari	30
	Circle II, pargana Atherban ..	
	Circle III, pargana Karari ..	
	Circle III, pargana Atherban ..	

ALLAHABAD DISTRICT—(*contd.*)

Tahsil	Settlement Circles	Standard transfer multiple
Phulpur	.. Circle I, pargana Sikandra ..	33
	Circle II, pargana Jhusi	
	Circle III, pargana Jhusi	
	Circle II, pargana Sikandra ..	32
	Circle I, pargana Jhusi	
	Circle IV, pargana Jhusi	
Soraon	.. Circle I, pargana Mirzapur Chauhari	31
	Circle II, pargana Soraon	
	Circle III, pargana Soraon ..	
	Circle I, pargana Soraon	28
	Circle III, pargana Nawabganj ..	
	Circle I, pargana Nawabganj ..	25
	Circle II, pargana Nawabganj ..	
Handia	.. Circle III, pargana Kewai ..	29
	Circle IV, pargana Kewai	
	Circle III, pargana Mah	
	Circle II, pargana Kewai	27
	Circle IV, pargana Mah	
	Circle VI, pargana Kewai	
	Circle II, pargana Mah	
	Circle I, pargana Kewai	26
	Circle V, pargana Kewai	
	Circle I, pargana Mah	
Karchhana	... Loam, pargana Arail	24
	River I, pargana Bara	
	River I, pargana Arail	
	River II, pargana Bara	
	Rice I, pargana Arail	
	Kachhar	
	Loam I, pargana Bara	
	Mar I, pargana Bara	
	Loam II, pargana Arail	
	River II, pargana Arail	
	Rice II, pargana Arail	
	Highlying I, pargana Bara ..	
	Loam II, pargana Bara	
	Mar II, pargana Bara	
	Highlying II, pargana Bara ..	
Meja	... Loam I	32
	River I	
	Kachhar	

ALLAHABAD DISTRICT—(*concld.*)

Tahsil	Settlement Circles	Standard transfer multiple
Meja—(*concld.*)	Loam II	29
	River II	
	Matyar	
	Pal I	25
	Loam III	
	River III	
	Pal II	
	Lapermar	
	Laper River	

JHANSI DIVISION

JHANSI DISTRICT

	Circles 1 to 9	18
	Lalitpur Sub-division, Circles 20 to 26	
	Jhansi Proper, Circles 10 to 19 ..	16
	Lalitpur Sub-division, Circles 27 to 37	

JALAUN DISTRICT

All tahsils ..	All Circles	16

HAMIRPUR DISTRICT

All tahsils ..	All Circles	16

BANDA DISTRICT

All tahsils ..	All Circles	16

BENARES DIVISION

BENARES DISTRICT

Benares ..	City Circles nos. I, II, III, IV(*a*), IV(*b*), and V of Pargana Dehat Amanat.	48
	Dhankhar Circles, I, II and III of Kaswar Raja, Circle I of Katehar East, Circles I, II, III, V and VI of Kole Aslah East, Circle I of Sultanpur, Circle I of Katehar West, Circles I and III of Sheopur, Circles II and IV of Athagaon, Circles II and IV of Kaswar Sarkari, Circles I(*a*), I(*b*), and II of Pandrah, Circles I, II, III, IV, V and VI of Kole Aslah.	34
Chandauli ..	Circle II of Pargana Mahaich, II of Pargana Dhus, I, II and IV of Pargana Budhwal, III of Pargana Mahuari, III, IV, V and VI of Pargana Majhwar and II of Pargana Narwan.	33

BENARES DISTRICT—(*concld.*)

Tahsil	Settlement Circles	Standard transfer multiple
Benares ..	Circles IV, V and VI of Pargana Kaswar Raja, Circle III of Pargana Jalhupur, Circle II of Pargana Katehar East, Circle II of Pargana Sultanipur, Circles II and III of Katehar West, Circles II, IV and V of Pargana Sheopur, Circles I and III of Athagaon, Circles I, III, V and VI of Kaswar Sarkari, Circle III of Pandrah.	31
Chandauli ...	Circle II of Pargana Ralhupur, II and IV of Pargana Mahuari, III of Pargana Barah, and VII of Pargana Majhwar.	30
Chandauli ...	Circle I of Pargana Mahaich, I and III of Pargana Ralhupur, I of Pargana Dhus, I and V of Pargana Mahuari, I, II and III of Pargana Mawai, I and II of Pargana Majhwar, I of Pargana Narwan, I and II of Pargana Barah and III of Pargana Budhwal.	28
Benares ..	Circles IV and V of Katehar East, Circles I, II, IV, V, VI of Jalhupur, and Circles IV and V of Katehar West.	24

MIRZAPUR DISTRICT

Mirzapur ..	Kon	33
Mirzapur and Chunar.	Chaurasi Suburban	
	Haveli	
	Chunar	
Mirzapur ..	Chaurasi Pahari	26
Robertsganj ..	Barhar	19
Mirzapur ..	Upraudh	
Robertsganj ..	Agori	

JAUNPUR DISTRICT

Jaunpur ..	Pargana Haveli—City Circle I, Pargana Haveli—Loam Cicle II, Pargana Saremu—Loam Circle I, Pargana Rari—Loam Circle I, Pargana Qariat Dost—Loam Circle I and Pargana Khapraha—Loam Circle I.	34

JAUNPUR DISTRICT—(*contd.*)

Tahsil	Settlement Circles	Standard transfer multiple
Jaunpur—(*concld.*)	Pargana Haveli—Gomti Circle III, Pargana Haveli—Sai Circle III, Pargana Saremu—Gomti Circle II, Pargana Rari—Gomti Circle II, Pargana Rari—Sai Circle III, Pargana Qariat Dost—Sai Circle II, Pargana Khapraha—Sai Circle II and the whole of Pargana Zafarabad.	30
	Pargana Haveli Usar (Rice) Circle V and Pargana Saremu Usar (Rice) Circle III.	24
Mariahun	Pargana Mariahun—Loam Circle I, Pargana Barsathi—Loam Circle I, Pargana Gopalapore—Loam Circle I.	34
	Pargana Mariahun—Rice Circle II, Pargana Barsathi—Rice Circle II.	28
	Pargana Mariahun—Sai Circle III, Pargana, Mariahun—Basuhi Circle IV, Pargana Mariahun—Barna Circle V, Pargana Barsathi—Basuhi Circle III, Pargana Barsathi—Barna Circle IV and Pargana Gopalapore—Basuhi Circle II.	18
Kerakat	Pargana Chandwak—Loam Circle I, Pargana Guzara—Loam Circle I, Pargana Bealsi—Loam Circle I, Pargana Dariyapar—Loam Circle I, and Pargana Pisara—Loam Circle I.	34
	Pargana Chandwak—Gomti Circle II, Pargana Guzara—Gomti Circle II, Pargana Bealsi—Sai Circle II, Pargana Daryapar—Gomti Circle II and Pargana Pisara—Gomti Circle II.	30
	Pargana Chandwak Usar (Rice) Circle III, Pargana Bayalri Usar (Rice) Circle III, Pargana Daryapar Usar (Rice) Circle III, Pargana Pisara Usar (Rice) Circle III.	28

JAUNPUR DISTRICT—(*concld.*)

Tahsil	Settlement Circles	Standard transfer multiple
Shahganj ..	Pargana Ungali—Loam Circle I and the whole of Pargana Rari, Pargana Chanda—Loam Circle I, Qariat Mendha—Loam Circle I.	
	Pargana Ungali—Gomti Circle II, Pargana Chanda—Gomti Circle II, Pargana Qariat Mendha—Gomti Circle II, Pargana Ungali—Usar (Rice) Circle III.	34
Machhlishahr	Pargana Ghiswa—Loam Circle I, Pargana Garwara—Loam Circle I, Pargana Mongara—Loam Circle I.	
	Pargana Ghiswa—Sai Circle II, and Pargana Garwara—Sai Circle II.	34
	Pargana Ghiswa Usar (Rice) Circle III, Pargana Garwâra Usar (Rice) Circle III and Pargana Mungara Usar (Rice) Circle II.	

GHAZIPUR DISTRICT

Ghazipur ..	Karauda Alluvial Ganges	
Sayedpur ..	Khanpur Matiyar (Usar)	
	Khanpur Gomti	
Mohammadabad	Alluvial Karil, Mohammadabad ..	32
	Alluvial Tarai, Mohammadabad ..	
	Loam, Zahurabad	
	Loam (Bhainsahi) Pachotar ..	
Ghazipur ..	Loam City, Ghazipur	
	Alluvial Ganges, Ghazipur	
	Loam, Ghazipur	
	Alluvial Ganges, Zamania ..	
Sayedpur ..	Saidpur 1st Loam	
	Shadipur 1st Loam	
	Saidpur Ganges 3rd	
	Bahariabad 1st Loam	30
	Saidpur 2nd Loam	
	Shadiabad 3rd Matiyar	
	Shadiabad 2nd Loam	
	Khanpur 1st Loam	
	Bahariabad Matiyar (Usar) ..	
Mohammadabad	Loam, Dehma and Mohammadabad ..	
	Loam Mangai, Pachotar	

GHAZIPUR DISTRICT—(*concld.*)

Tahsil	Settlement Circles	Standard transfer multiple
Ghazipur ..	Ghazipur Rice	
	Zamania Superior Karil	
	Karaunda Loam Ganges	
	Zamania Rice	
	Zamania Inferior Karil	28
Sayedpur ..	Saidpur Matiyar (Usar)	
Muhammadabad	Dhankhar Clay, Pachotar ..	
	Dhankhar Jhil, Zahurabad ..	
	Loam, Sarju, Dehma, Zahurabad ..	
	Dhankhar Usar, Zahurabad ..	

BALLIA DISTRICT

Ballia ..	Circles I, II and IV	
Rasra ..	Sarju Circle B	42
	Rasra Circle A	
Ballia ..	Circle III	
Rasra ..	Kopachit Circles A and B	
	Sikanderpur and Bhadaon A and B ..	31
Bansdih ..	Circles II, III and IV	
Rasra	Sikanderpur and Bhadaon—D (Circles C, D and E).	
Rasra ..	Sikanderpur and Bhadaon—F ..	
Ballia ..	Circle V	23
Bansdih ..	Circle I	

GORAKHPUR DIVISION

GORAKHPUR DISTRICT

Sadar ..	All the circles in Pargana Bhawapar, except Circle VII Alluvial.	
	All the circles in Pargana Hasanpur Magher, except Circles IV and V Alluvial.	
Bansgaon ..	All the circles in Pargana Dhuriapar, except Circles V; VI, IV Alluvial, VI Alluvial, VII Alluvial, VII Non-alluvial and IV Non-alluvial.	
	All the circles in Pargana Chullupar, except Circles I Alluvial, II Alluvial IV.	70
	All the circles in Pargana Unwal ..	
	All the circles in Pargana Bhawapar, except Circles IX Alluvial and X Alluvial.	
Hata ..	Silhat-Bangar Southern	
Padrauna ..	Circles VIII and IX	
Deoria ..	Circle Bangar	

GORAKHPUR DISTRICT—(*concld.*)

Tahsil	Settlement Circles	Standard transfer multiple
Sadar ..	Circle VII Alluvial, Pargana Bhawapar	65
	Circles IV and V Alluvial in Pargana Hasanpur Magher.	
	All the circles in Pargana Haveli, except Circles I, II, III, X Alluvial and XI Alluvial.	
Mahrajganj ..	All the circles in Pargana Haveli West, except Circles X, XI and XIV.	
	Circles I, IV, V and VI in Pargana Haveli East.	
Bansgaon ..	Circles V, VI, IV Alluvial, VI Alluvial, VII Alluvial, VII Non-alluvial, IV Non-alluvial in Pargana Dhuriapar.	
	Circles I Alluvial, II Alluvial, IV in Pargana Chillupar.	
	Circles IX Alluvial, X Alluvial in Pargana Bhawapar.	
Hata ..	Haveli, Silhat-Bangar Northern and Shahjahanpur.	
Padrauna ..	Circles IV, V, VI and VII	
Deoria ..	Circle Bhat	
Sadar ..	Circles I, II, III, X Alluvial and XI Alluvial in Pargana Haveli.	60
Mahrajganj ..	Circles X, XI and XIV in Pargana Haveli West.	
	All the circles in Pargana Haveli East, except Circles I, IV, V and VI.	
	All the circles in Pargana Tilpur and Binayakpur.	
Hata ..	Silhat-Kachhar and Alluvial ..	
Padrauna ..	Alluvial Mahals and all the circles, except IV, V, VI, VII, VIII and IX.	
Deoria ..	All the alluvial circles	

BASTI DISTRICT

Basti ..	Circles I—XII	65
Khalilabad ..	Circles II, III, IV and VII ..	70
	Circles I, V, VI and VIII	65
Domariaganj ..	Circles I—IX..	60
Bansi ..	Circles I—IX..	65
Harraiya ..	Circles III, IV, VII and VIII ..	65
	Circles I, II, V and VI	60

AZAMGARH DISTRICT

Tahsil	Settlement Circles	Standard transfer multiple
Nizamabad ..	Circle Suburban	70
	Bangar Circle	60
	Kachhar Circle	
Sagri ..	Circle Bangar	70
	Circle Kachhar	65
	Circle Alluvial	
Phulpur ..	Northern Circle	70
	Southern Circle	
Lalganj ..	Bangar Circle	70
	Ordinary Circle	
Muhammadabad	Bangar Circle	60
	Ordinary Circle	
Ghosi ..	Bangar Circle	55
	Kachhar Circle	
	Mixed Circle	

KUMAUN DIVISION

NAINI TAL DISTRICT

Kashipur ..	Jaspur Bangar A	38
	Phika Poli	
	Kosi Khadar	
	Jaspur Bangar B	26
	Kashipur Bangar	
	Dhela Tumaria	
	Jungle	20
	Tarai	
	The *bandobasti* villages of the Tarai and Bhabar Government Estates.	

LUCKNOW DIVISION

LUCKNOW DISTRICT.

Lucknow ..	City Circle I	28
	Matiyar Circle II of Pargana Lucknow	
	Inferior outer Circle III	
	Superior outer Circle IV	
	Matiyar Circle II of Parganas Kakori and Bijnaur.	
	Dumat I	26
	Gomti III	
	Sai Circle I	
	Bhur Circle V	
	Tarai Circle VI	

LUCKNOW DISTRICT—(*concld.*)

Tahsil	Settlement Circles	Standard transfer multiple
Malihabad ..	Usar Circle of Pargana Malihabad ..	27
	Usar Circle IV of Pargana Mahona ..	
	Dumat Circle of Pargana Malihabad ..	24
	Dumat Circle III of Pargana Mahona	
	Beta Circle	
	Bhur Circle	
	Jhil Circle V	
Mohanlalganj	Matiyar Circle II of parganas Mohanlalganj and Nigohan.	32
	Dumat Circle I	
	Sai Circle I	
	Bhur Circle II	

UNAO DISTRICT

Purwa ..	Pargana Purwa I, II, III and IV ..	31
	Pargana Maurawan, Main Circle ..	
	Pargana Asoha I and	
	Pargana Baiswara I and II ..	
	Pargana Maurawan, River Circle ..	29
	Pargana Asoha II	
	Pargana Baiswara III	
	Pargana Asoha III	26
	Pargana Baiswara IV	
Unao ..	First Class I and II	26
	Intermediate Class IV	24
	Third class III, V, VI and VIII ..	22
Hasanganj ..	Superior Class IV	32
	Auras and Mohan	
	First Class parganas Jhalotar, Ajgain, Gorinda, Parsandan I, II and III, Parganas Mohan and Auras I and Pargana Aswan-Rasulabad.	26
	Parganas Jhalotar, Ajgain and Gorinda Parsanda IV	24
	Pargana Auras V	
	Pargana Mohan II	
	Pargana Aswan-Rasulabad ..	

UNAO DISTRICT—(*concld.*)

Tahsil	Settlement Circles	Standard transfer multiple
Safipur ..	First Class Pargana Safipur, I and II ..	27
	Parganas Bangarmau and Fatehpur Chaurasi, I and II.	
	Intermediate	23
	Pargana Safipur, III and IV ..	
	Third Class Parganas	20
	Safipur, V	
	Pargana Bangarmau and Fatehpur Chaurasi III, IV and V, Tahsil Safipur Alluvial VI.	

SITAPUR DISTRICT

Sidhauli ..	Superior Dumat	29
	Inferior ,, ...	
	Half Tarai	
	Eastern High Lying	
	Tarai	28
	Chauka	
	Jhil	27
	Gomti Sarain	
	Western High Lying	
Biswan ..	Uperhar, nos. I, II and III.. ..	28
	Tarai no. I	
	Tarai no. II	26
	High Lying	
	Low Lying West no. I	
	Do. East no. I	
	Eastern	25
	Ganjar	
	Low Lying West no. II	
	Do. East no. II	
Sitapur ..	Northern Dumat	30
	Do. Sarain	
	Gond Basin	
	Central Gond	29
	West Perai	
	North Western Jhil	
	Perai Nadi	
	Ramkot Jhil	
	Sarain Gond Saddle	28
	Southern Sarain	
	Sarain Perai Plateau	
	Sarain Gond Plateau	
	Uperhar Circle	
	Tarai Circle	

SITAPUR DISTRICT—(*concld.*)

Tahsil	Settlement Circles	Standard transfer multiple
Misrikh ..	Inferior Dumat Circle	29
	Kathna Perai Circle	
	Perai Dumat	
	Eastern Kathna	
	Southern Light Circle	28
	Chandra Light Circle	
	Southern Gomti Bhur	
	Gomti Kathna Bhur	
	Superior Dumat Circle	26
	Machhrehta Korauna Dumat ..	
	Lower Beta Circle	
	Machhrehta Stiff Circle	
	Usar Jhil Circle	
	Sarain Circle	

RAE BARELI DISTRICT

Salon ..	Salon, Circles I and II	35
	Parshadipur North	
	Rokha	
Dalmau ..	Dalmau Circle	33
	Khiron Circle	
	Sareni Circle	
Maharajganj ..	Bachhrawan, Circle I	31
	Hardoi Circle	
	Inhauna, Circles I and II ..	
	Bachhrawan, Circle II	
	Semrauta Circle	
	Kumhrawan Circle	
	Mohanganj, Circles I and II ..	
Salon ..	Salon, Circles III and IV	29
	Parshadipur South	
Rae Bareli ..	Rae Bareli, Circle I	26
	Rae Bareli, Circles II and III ..	20

HARDOI DISTRICT

Bilgram ..	Town Circle	26
	Superior Domat	
	Jhil	
	Superior Ridge	
	Light Domat	

HARDOI DISTRICT—(*concld.*)

Tahsil	Settlement Circles	Standard transfer multiple
Bilgram—(*concld.*)	Sai	
	Inferior Ridge	
	Stiff Tarai	
	Light Tarai	
	Superior Light Domat	
	Inferior Light Domat	
	Ridge	
	Garra Tarai	21.
	Stiff Tarai	
	Ram Ganga Tarai	
	Ganga Tarai	
	Stiff Circle	
	Light Circle	
	Saindha Circle	
	Kachar	
Sandila ..	Superior Domat	
	Usar Circle	
	Light Loam	25.
	Inferior Domat	
	Sai Circle	
Shahabad ..	Gomti Bhoor Circle	
	Superior Domat	
	Superior Light Domat	
	Superior Garra Tarai	
	Gomti Bhur	
	Eastern Tarai	
	Ridge Circle	
	Inferior Light Domat	
	Jhil Circle	23.
	Sai Basin	
	Western Garra Tarai	
	Saindha	
	Baukab Bhur	
	Garra R. Ram Ganga Bhur ..	
	Khadar Bangar	
	Inferior Garra Tarai	
	Domat Matyar	
Hardoi ..	Town Circle	
	Superior Domat	
	Bhansta Circle	7-3
	Superior Jhil Usar	32
	Superior Light Domat	
	Inferior Domat	
	Sai Circle	
	Inferior Jhil Usar	

HARDOI DISTRICT—(*concld.*)

Tahsil	Settlement Circles	Standard transfer multiple
Hardoi—*concld.*	Inferior Light Domat	23
	Sai Basin	
	Alluvial	
	Superior Tarai	
	Gomti Bhur	
	Garra Bhur	
	Ridge	
	Swamp	
	Inferior Tarai	
	Garra Ram Ganga Bhur	

KHERI DISTRICT

Lakhimpur ..	Parganas Kheri and Paila, Circles nos. I and II.	28
	O. K. Tracts nos. I and II	
	Aliganj South, Circle I	
	Sansarpur, Circle I	
Muhamdi ..	Pargana Pasgawan, Circle I ..	
	,, Kasta, Circle I	
	,, Haidrabad, Circle I ..	
	,, Muhamdi, Circle I ..	
	,, Aurangabad, Circle I ..	
	,, Pasgawan, Circle II ..	
	,, Kasta, Circle II	
	,, Muhamdi, Circle II ..	
	,, Aurangabad, Circle II ..	
	,, Haidrabad, Circle II ..	
Lakhimpur ..	Pargana Srinagar, O. S. Tract no. I	26
	,, Bhur, Aliganj South, Circle II	
	,, Bhur, Aliganj North, Circle I	
	,, Paila, Circle III ..	
	,, Paila, Grant Circle ..	
	,, Srinagar, O. S. Tract II ..	
	,, Bhur, Srinagar Circle ..	
	,, Kukra, Sansarpur, Circle II ..	
	,, Kukra, Kukra Circle I ..	
	,, Bhur, Aliganj no. II ..	
	,, Srinagar, Circle III ..	
	,, Kheri, Circle III ..	
	,, Bhur, Aliganj South, III ..	
	,, Kukra, Kukra Circle II ..	
	,, Kukra, Grant Circle ..	

KHERI DISTRICT—(*concld.*)

Tahsil		Settlement Circles	Standard transfer-multiple
Muhamdi	.. Pargana	Haidrabad, Circle III ..	
	,,	Pasgawan, Circle III ..	
	,,	Pasgawan, Grant Circle ..	
	,,	Muhamdi, Circle III ..	
	,,	Aurangabad, Circle III ..	
	,,	Kasta, Circle III ..	
	,,	Haidrabad, Grant Circle .	
	,,	Atwapiparia, Circle II ..	
	,,	Atwapiparia, Circle I ..	
Nighasan	.. ,,	Firozabad, Central Circle, Class I.	
	,,	Dhaurehra, Central Circle, Class I.	
	,,	Nighasan, Central Circle no. I	26
	,,	Dhaurehra, Central Circle no. II.	
	,,	Firozabad Central Circle no. II	
	,,	Khairigarh, Haveli Class I.	
	,,	Dhaurehra, Chauka and Dahawar Circle.	
	,,	Firozabad, Chauka and Dahawar Circle.	
	,,	Nighasan, Soheli Circle no. I.	
	,,	Khairigarh, Konawat Class I	
	,,	Nighasan, Central Circle no. II	
	,,	Nighasan, Chauka I ..	
Lakhimpur	.. Pargana	Bhur, Circle I Bhur ..	
	,,	Bhur, Circle II Bhur ..	
Muhamdi	.. ,,	Magdapur, Grant Circle ..	
	,,	Magdapur, Bhur Circle ..	
	,,	Aurangabad, Bhur Circle ..	
Nighasan	.. ,,	Firozabad, Gogra Circle ..	
	,,	Dhaurehra, ,, ..	
	,,	Khairigarh, Konawat Class II	23
	,,	Palia, Palia Circle ..	
	,,	Nighasan, Soheli Circle II ..	
	,,	Nighasan, Chauka II ..	
	,,	Khairigarh, Haveli Class II ..	
	,,	Khairigarh, River ..	
	,,	,, Forest ..	

FYZABAD DIVISION

FYZABAD DISTRICT

Tahsil	Settlement Circles	Standard transfer multiple
Fyzabad ..	Mangalsi, I and III	36
	Haveli Oudh, I and III	
	Mangalsi, II, IV and VI	34
	Haveli Oudh, III	
	Amsin, I and III	
	Mangalsi, V	28
	Haveli Oudh, IV	
	Amsin, II (*a*), II (*b*) and IV ..	
	Mangalsi, VII	
	Haveli, Oudh V	
	Amsin, V	
Akbarpur ..	Akbarpur, II and III	55
	Majhaura, II	
	Surhurpur, I and II ..	
	Birhar, I	
	Akbarpur, I and V	
	Manjhaura, III ..	
	Surhurpur III	
	Akbarpur IV and VI ..	
	Manjhaura, I	
Bikapur ..	Khandasa, II	40
	Pachmirath, III and IV ..	
	Khandasa, I	35
	Pachmirath, I, V and VIII ..	
	Khandasa, III and IV	
	Pachmirath, II, VI and VII ..	
Tanda ..	Tanda, I	33
	Tanda, II, III and IV ..	
	Birhar, II and III	
	Tanda, V	
	Birhar, IV	

GONDA DISTRICT

Tarabganj ..	Gwarich, I, II	36
	Digsir, I	
	Nawabganj, I	
	Gwarich, III, IV, V ..	
	Digsir, II, III	
	Mahadewa, I, II, III ..	
	Nawabganj, II	
	Digsir, IV	
	Mahadewa, IV	
	Nawabganj, III, IV ..	

GONDA DISTRICT—(*concld.*)

Tahsil	Settlement Circles	Stand ard transfer multiple
Gonda ..	Paharpur, I	37
	Gonda, IV	
	Paharpur, II, III	
	Gonda, II, III, VI	
	Gonda, I, VI	
Utraula ..	Utraula, I	35
	Budhapair, I	
	Mankapur, I	
	Sadullanagar, I	
	Utraula, II, III	
	Budhapair, II	
	Sadullanagar, II	
	Babhnipair, II	
	Utraula, IV	
	Babhnipair, III	
	Mankapur, II, III	
	Budhapair, III	
	Sadullanagar, III, IV	

BAHRAICH DISTRICT

Kaiserganj ..	Pargana Hisampur, II	40
	,, Hisampur, III to VI ..	
	,, Fakharpur, I	
	,, Fakharpur, III	23
	,, Hisampur, I	
Nanpara ..	Pargana Charda, I	40
	,, Dharamanpur, I	
Bahraich ..	Pargana Bahraich, II	40
	,, Ikauna, III	
	,, Bhinga, I	

SULTANPUR DISTRICT

Sultanpur ..	Circles I, II, and III of both parganas	48
Kadipur ..	Circles I, II and III of both Aldemau and Chanda parganas.	41
Musafirkhana	Dumat circles of all the four parganas	45
	Gomti and Naya circles of all the four parganas.	
	Usar and stiff soil circles of all parganas.	
Amethi ..	Circles I and II of both parganas ..	41
	Circle III of Pargana Amethi ..	

PARTABGARH DISTRICT

Tahsil	Settlement Circles	Standard transfer multiple
Partabgarh ..	Partabgarh, I, II, III and IV ..	36
	~~Athena~~, I, II, III and IV ..	
Patti ..	Circles I and IV	35
	Circles II and III	31
Kunda ..	Pargana Manikpur, I, II, III and IV ..	32
	,, Birhar, I, II, III, IV and V ..	
	,, Dhingwas, I, II and III ..	
	,, Rampur, I, II and III ..	

BARA BANKI DISTRICT

Nawabganj ..	Circle I of group A	42
	Circle I of group B	35
	Circle I of group C	30
Fatehpur ..	Circle I	38
	Circles II, III, IV and V ..	35
Ramsanehighat	Circles XIV of group A	39
	Circles I, II, VIII, IX, X, XI and XII of group B.	
	Circles III, IV, V, VI, VII, XIII and XV of group C.	
Haidergarh ..	Sidhaur, I, Subeha, II and Haidergarh, IV.	33
	Haidergarh, I, Sidhaur, II and Subeha III.	
	Subeha, I and Haidergarh, III ..	

APPENDIX II

Showing the amount of debt, expressed as a multiple of the instalment paid each year, which is liquidated by equated instalments over a given number of years, if the rate of interest is 4½ per cent. per annum.

A	B
Number of years	Debt as a multiple of the annual payment
1	0·959
2	1·879
3	2·762
4	3·609
5	4·421
6	5·200
7	5·947
8	6·664
9	7·351
10	8·011
11	8·643
12	9·250
13	9·832
14	10·391
15	10·926
16	11·440
17	11·933
18	12·406
19	12·859
20	13·294
21	13·712
22	14·112
23	14·496
24	14·864
25	15·217

APPENDIX III

Table of Compound interest

(1)—*Principal Re 1—yearly rests*

Year	5 per cent.	5½ per cent.	6 per cent.	6½ per cent.	7 per cent.	7½ per cent.	8 per cent.	8½ per cent.	9 per cent.	9½ per cent.	10 per cent.	11 per cent.	12 per cent.	Year
1	1·05000	1·05500	1·06000	1·06500	1·07000	1·07500	1·08000	1·08500	1·09000	1·09500	1·10000	1·11000	1·12000	1
2	1·10250	1·11302	1·12360	1·13423	1·14400	1·15562	1·16640	1·17722	1·18810	1·19902	1·21000	1·23210	1·25664	2
3	1·15762	1·17424	1·19102	1·20795	1·22504	1·24230	1·25971	1·27729	1·29503	1 31293	1·33100	1·36763	1·40869	3
4	1·21551	1·23883	1·26251	1·28647	1·31080	1·33547	1·36049	1·38586	1·41158	1·43766	1·46410	1·51807	1·57915	4
5	1·27628	1·30696	1·33823	1·37009	1·40255	1·43563	1·46933	1·50366	1·53862	1·57424	1·61051	1·68506	1·77022	5
6	1·34009	1·37884	1·41852	1·45914	1·50073	1·54330	1·58688	1·63147	1·67710	1·72379	1·77156	1·87042	1·98442	6
7	1·40710	1·45468	1·50367	1·55399	1·60578	1·65905	1·71383	1·77014	1·82804	1·88755	1·94872	2·07616	2·22453	7
8	1·47748	1·53469	1·59395	1·65500	1·71819	1·78348	1·85093	1·92060	1·99256	2·06687	2·14359	2·30454	2·49370	8
9	1·55133	1·61910	1·68952	1·76257	1·83846	1·91724	1·99901	2·08385	2·17189	2·26322	2·35795	2·55804	2·79544	9
10	1·62890	1·70815	1·79100	1·87714	1·96715	2·06103	2·15893	2·26098	2·36736	2·47822	2·59374	2·83942	3·13369	10
11	1·71034	1·80210	1·89830	1·99915	2·10485	2·21561	2·33164	2·45316	2·58043	2·71366	2·85312	3·15176	3·51287	11
12	1·79586	1·90121	2·01220	2·12910	2·25219	2·38178	2·51817	2·66168	2·81266	2·97146	3·13843	3·49845	3·93792	12
13	1·88565	2·00578	2·13298	2·26749	2·40985	2·56042	2·71963	2·88793	3·06581	3·25374	3·45227	3·88328	4·41441	13

Table of Compound Interest

(2) *Principal Re. 1—half-yearly rests*

Year	5 per cent.	5½ per cent.	6 per cent.	6½ per cent.	7 per cent.	7½ per cent.	8 per cent.	9 per cent.	10 per cent.	11 per cent.	12 per cent.	Year
½	1·02500	1·02750	1·03000	1·03250	1·03500	1·03750	1·04000	1·04500	1·05000	1·05500	1·06000	½
1	1·05063	1·05576	1·06090	1·06006	1·07123	1·07641	1·08160	1·09203	1·10250	1·11302	1·12360	1
1½	1·07689	1·08479	1·09273	1·10070	1·10872	1·11675	1·12486	1·14117	1·15703	1·17424	1·19102	1½
2	1·10381	1·11462	1·12551	1·13648	1·14752	1·15865	1·16986	1·19252	1·21551	1·23882	1·26251	2
2½	1·13141	1·14527	1·15927	1·17341	1·18709	1·20210	1·21665	1·24618	1·27628	1·30696	1·33823	2½
3	1·15969	1·17677	1·19405	1·21155	1·22926	1·24718	1·26532	1·30226	1·34010	1·37884	1·41852	3
3½	1·18869	1·20913	1·22987	1·25092	1·27228	1·29395	1·31599	1·36086	1·40710	1·45468	1·50367	3½
4	1·21840	1·24238	1·26677	1·29158	1·31681	1·34244	1·36857	1·42210	1·47746	1·53469	1·59395	4
4½	1·24886	1·27654	1·30477	1·33355	1·36290	1·39281	1·42331	1·48610	1·55133	1·61910	1·68952	4½
5	1·28008	1·31165	1·34392	1·37090	1·41660	1·44544	1·48024	1·55297	1·62889	1·70815	1·79100	5
5½	1·31209	1·34772	1·38423	1·42164	1·45997	1·49924	1·53945	1·62285	1·71034	1·80209	1·89830	5½
6	1·34489	1·38478	1·42576	1·46785	1·51107	1·55545	1·60103	1·69588	1·79586	1·90121	2·01220	6
6½	1·37851	1·42286	1·46853	1·51555	1·56396	1·61378	1·66507	1·77220	1·88565	2·00578	2·13298	6½
7	1·41297	1·46199	1·51259	1·56481	1·61869	1·67430	1·73168	1·85194	1·97993	2·11609	2·26101	7
7½	1·44830	1·50220	1·55797	1·61567	1·67535	1·73709	1·80094	1·93528	2·07893	2·23248	2·39673	7½
8	1·48451	1·54351	1·60471	1·66817	1·73399	1·80223	1·87298	2·02237	2·18287	2·35527	2·54059	8
8½	1·52162	1·58595	1·65285	1·72239	1·79468	1·86981	1·94790	2·11338	2·29202	2·48481	2·69296	8½
9	1·55966	1·62957	1·70243	1·77837	1·85749	1·93993	2·02582	2·20848	2·40662	2·62147	2·85447	9
9½	1·59865	1·67438	1·75351	1·83617	1·92250	2·01268	2·10685	2·30786	2·52695	2·76565	3·02567	9½
10	1·63862	1·72043	1·80611	1·89584	1·98979	2·08815	2·19112	2·41171	2·65330	2·91776	3·20714	10
10½	1·67958	1·76774	1·86029	1·95746	2·05943	2·16646	2·27877	2·52024	2·78596	3·07824	3·39957	10½
11	1·72157	1·81635	1·91610	2·02107	2·13151	2·24770	2·36992	2·63365	2·92526	3·24754	3·60354	11
11½	1·76461	1·86630	1·97359	2·08676	2·20611	2·33199	2·46472	2·75217	3·07152	3·42616	3·81976	11½
12	1·80873	1·91762	2·03279	2·15458	2·28333	2·41944	2·56330	2·87601	3·22510	3·61460	4·04894	12
12½	1·85394	1·97036	2·09378	2·22460	2·36324	2·51017	2·66584	3·00543	3·38635	3·81340	4·29188	12½
13	1·90021	2·02454	2·15659	2·29690	2·44596	2·60430	2·77247	3·14068	3·55567	4·02314	4·54939	13

SUPPLEMENT

TO

THE U. P. DEBT ACTS

(29)

BY

BENI PRASAD AGARWALA, M. A., LL. B.

X9(J):(252)
G7

ALLAHABAD
RAM NARAIN LAL
LAW PUBLISHER
1937

THE UNITED PROVINCES REGULATION OF SALES ACT IX OF 1936.

[RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL ON 4TH DECEMBER, 1936 AND PUBLISHED FOR GENERAL INFORMATION ON 12TH DECEMBER, 1936.]

AN

ACT

To amend the United Provinces Regulation of Sales Act, 1934.

WHEREAS it is expedient to amend the United Provinces Regulation of Sales Act, 1934 ;

And whereas the previous sanction of the Governor-General under sub-section (3) of section 80-A of the Government of India Act has been obtained to the passing of this Act ; It is hereby enacted as follows :

Short title.

1. This Act may be called the United Provinces Regulation of Sales (Amendment) Act, 1936.

Amendment of section 4 of U. P. Act, XXVI of 1934.

2. In section 4 of the United Provinces Regulation of Sales Act, 1934 (hereinafter referred to as " the Act ") for the figure " 8," the figure " 7 " shall be substituted.

Amendment of section 8 of U. P. Act, XXVI of 1934.

3. For the proviso to section 8 of the Act the following shall be substituted, namely :

" Provided that, if the local Government so extends the period, the Collector shall, as soon as possible after the commencement of each such extension, again give the option mentioned in section 4 to any decree-holder,

who, when that option was last given, elected under clause (*b*) of the said section to have the sale postponed, and the provisions of sections 5, 6 or 7, as the case may be, shall again apply according to the option exercised by the decree-holder."

Amendment of section 9 of U. P. Act. XXVI of 1934

4 To section 9 of the Act the following proviso shall be added, namely :

" Provided that in all cases in which the Collector has given the option mentioned in section 4 and the decree-holder has not elected under clause (*b*) of the said section to have the sale postponed the provisions of sections 5 and 7 of the Act shall continue to have effect until the transfer of land under section 5 has been completed or the decree has been wholly or partly satisfied under section 7, as the case may be."

NOTIFICATIONS.

Revenue Department Notification No. 26 77-II-1 dated 7-1-36.

Under sub-section (2) of section 4 of the U P. Agriculturists', Relief Act, 1934, and in continuation of Revenue Department notification No 343 Revenue dated 1st of May, 1935, it is hereby Notified that the rate of interest at which the Government of India will now lend money to the local Government is 3½ per cent. and that with effect from 15th of January, 1936 until such date as may hereafter be notified 3½ per cent. shall be the maximum rate to be allowed as future interest in any decree for payment of money or for sale in default of payment of money, or for foreclosure, or in any order for grant of instalments passed against an agriculturist as defined in the aforesaid Act.

Revenue Department Notification No 110-1-A-228-B-1934 dated 15-1-35.

The Local Government declares 19th of January, 1935 as the date on which Agriculturist Loans (U. P.) Amendment Act XII of 1934 comes into force.

CASE-LAW

ON

THE AGRICULTURISTS' RELIEF ACT, 1934.

Raj Narain vs. *Bindaban*, 1936 All 449=1936 A. L. J 501=1936 R. D. 214.

S. 2 Proviso 2.—The words "**is assessed**" in Proviso 2 to S. 2 mean "was assessed at the last occasion" *i. e.*, was assessed during the last financial year. That this is the correct criterion is also apparent from R 1, published on 10th August, 1935, which is to the effect that the court had to find out whether the debtor admits or does not admit that he was assessed to income-tax "for the last financial year for which assessments have been made by the Income-tax Department." The mere fact that during the current year his return is still under examination and the income-tax officer has not yet decided whether he should or should not be assessed to income-tax should not make any difference.

Mohammad Musa Khan vs. *Sri Thakur Gopalji Maharaj*, 1937 A. L. J. 178.

Agriculturists' Relief Act S. 2 (2) (a)—**A person who pays land-revenue**—are wide enough to include a person who is not an owner of zamindari property—case remanded for enquiry whether the applicant was merely a trustee under the deed or had a beneficial interest also in the property.

Bindraban and another vs. *Chotey Lal*, 1937 A. L. J. 93.

Agriculturists' Relief Act S. 3 (2)—Whether a Small Cause Court can create a charge on immovable property under the Act.—S. 7 Civil Procedure Code.

Under S. 7 of the Civil Procedure Code a Court of Small Causes has no jurisdiction to execute decrees against immovable properties, but creating a charge at the time of passing an instalment decree under S. 3 (2) of the Agriculturists' Relief Act does not amount to executing the same. So a Small Cause Court, though it has no jurisdiction to attach an immovable property, has jurisdiction to create a charge thereon.

Raghuraj Singh vs. *Sarkar Sahai and others*, A. I. R. 1936 Oudh 321=162 I. C. 841=1936 O. W. N. 534=1936 O. L. R. 332=1936 R. D. 272.

Agriculturists' Relief Act S. 5 (2)—The court to which the court passing the order is immediately subordinate—meaning of—under S. 3 of Civil Procedure Code shows that a subordinate judge is subordinate to the District Judge—So appeal under S. 5 (2) from an order passed by a sub-judge lies to the District Judge and not to the High Court—whatever the value of the particular suit—view supported by absence in this section of the words used in S. 23 of the Agriculturists' Relief Act.

Ram Gulam vs. *Bandu Singh*, 1936 All. 434=1936 A. L. J. 465=1936 R. D. 215.

Agriculturists' Relief Act S. 2 (2) Example (6).—A subsequent purchaser of a mortgaged property is a person who is entitled to redeem the mortgage under the provisions of S. 12 of the Act and therefore he is a person to whom that chapter applies. If such a person is an agriculturist in accordance with explanation 6 to S. 2 (2), the period during which instalments are to be paid by him cannot exceed beyond four years from the date of that decree.

Agricuturists' Relief Act S. 3 (1) Proviso (5) and S. 5.—For the purposes of S. 5 the meaning of the word

decree in the proviso to S. 3 (1) is the decree for instalments and not the original decree which is converted into a decree for instalments. The Court at the time of passing an instalment decree under chapter II shall reckon the period of instalments from the date of the instalment decree and not from the original decree.

S. 5.

In order that S. 5 should apply to him it is necessary for a subsequent purchaser of a mortgaged property to establish three facts, namely, (1) that the mortgagor was an agriculturist because otherwise the transaction would not amount to a loan within the meaning of S. 2 (10) (*a*); (2) that he himself was an agriculturist on the date of the loan: and (3) that he himself was an agriculturist at the date of the institution of the suit in which the decree was passed.

Kailash Kuar vs. *L. Amar Nath*, A. I. R. 1936 Oudh 334-1936 O. W. R. 471=1936 R. D. 218=162 I. C. 396 =1936 O. L. R. 269.

Agriculturists' Relief Act S. 4—3 and 5—**Any order for grant of instalments—meaning of:—**

In a mortgage suit if the debtor does not apply for instalments under section 5 the rate of interest after the decree would be governed by Schedule III but if he applies for concession under S. 5, it is unreasonable that he should also be allowed a further concession of reduced rate of future interest from the date of instalment order under S. 4. Therefore the words "any order for grant of instalments," used in S. 4, though quite general should be construed to apply only "to orders, for grant of instalments passed under S. 3. Therefore interest should run under Schedule III till the date of realisation.

Agriculturists' Relief Act, S. 30—Interest after 1st January 1930 should be calculated on total of principal

and interest found due on 31st December, 1929, and not on original principal—Section provides only for change in the rate of interest and does not affect other terms of contract—the words on a loan—only mean in respect of a loan—otherwise the terms "On the sum originally borrowed" used in S. 31 ought to have been used.

Ram Narain and others vs. *Mahmood Hasan*, 1936 A. L. J. 510.

Agriculturists' Relief Act S 30 and Usurious Loans Act S. 3.—On an application by a debtor for amendment of decree under S. 30 Agriculturists' of the Relief Act the court has "only the power to change the rate of interest after January 1, 1930."

"The court has no jurisdiction to interfere with the rate of interest before January 1, 1930 either under the Agriculturists' Relief Act or under the Usurious Loans Act, because "that Act itself clearly says that the exercise of the powers given by section 3 of the Act, no court shall do anything which affects any decree of a court."

Misri Lal and others vs. *Alexander Gardner and others*, A. I. R. 1936 All. 697=1936 R. D. 292=1936 A. L. J. 1250.

Agriculturists' Relief Act S 30 (2) (10) (a)—Whether a transferee of mortgaged property who has to pay the debt originally advanced to an agriculturist can take the benefit of the Act, S. 30 (2) (10) (*a*)—If a loan is advanced to an agriculturist originally and that transaction is a loan within the definition of the Agriculturists' Relief Act, any person who has to pay that loan can take advantage of the provisions of S. 30 because the "Section does not contain the term agriculturist. It says merely that no debtor shall be liable to pay interest on a loan taken before this Act comes into force at a rate higher than

that specified in Schedule II, etc." Therefore a transferee of the property of an agriculturist which is subject to mortgage can take advantage of the Act if he has to pay the loan.

Baryar Singh vs. *Ram Dularay*. 1936 A. L. J. 1309= 1937 All 96=1936 R.D. 560.

Agriculturists' Relief Act S. 30(2)—If a decree has already been passed—meaning of—

The term " already been passed " refers to the time of the application, so the " sub-section means any decree passed prior to the date of the application " and not only a decree passed before the Act came into force. Obviously therefore, a judgment-debtor in a decree passed after the Act came into force, can apply under S. 30(2) of the Agriculturists' Relief Act.

Hakim Kamla Datt vs. *Ram Man Lal.*—A. I R. 1937 All. 114=1936 R. D. 593

Agriculturists' Relief Act Section 30 1).—Court can reduce amount decreed according to S. 30—S. 30 (1) provides that interest after 1st January 1930, shall be on loan—*i. e.*, not on loan plus interest upto 31st December, 1929, but on loan only. So court can reduce a decree by allowing interest on principal alone for the period *pendente lite*—Or 34, R. 11 C. P. Code is no bar as C. P. Code S 4 restricts its application so as not to affect any special or local law.

Ramman Lal vs. *Kamala Dat.*—1937 A. L. J. 12= 1936 All. 864=1936 R. D. 491

Agriculturists' Relief Act S. 30—Scope of—Interest on what amount to be calculated.

Under the section no debtor is liable to pay interest on a loan, etc., higher than the rate provided in the schedule from 1st January 1930 It does not allow interest to be calculated on the total amount found due on 31st December, 1929, at the rate provided in that behalf. "The interest should not be on the calculated amount due but only on the loan, that is, on the principal of the loan."

Bisesar Ram Marwari and others vs. *Paras Nath and others*, 1937 A. L. J. 125.

Agriculturists' Relief Act S. 30 and Sch. III.—Whether court can change compound into simple interest :—The Schedule III provide separate columns for cases where loans are expressed to be with compound interest and for cases where they are expressed to be with simple interest. "The description indicates that it is a kind of loan which is meant by the column headed "compound interest" or the column headed "simple interest." There being nothing else in the Act it seems "that the legislature in framing this table recognised that certain rates were to be applied to compound-interest-loans and certain other rates of a larger amount to simple-interest-loans."

Lala Mahadeo Prasad vs. *Bhaiya Lal Baksh Singh*, A. I. R. 1937 Oudh 12=1936 O. W. N. 740=164 I. C. 684=1936 O. L. R. 498=1936 R. D. 398.

Agriculturists' Relief Act S. 33.—Appeal against decrees passed under—No provision in the Act—So an appeal lies under the general provisions of S. 96, C. P. Code.

Kunj Behari Lal vs. *Ketki Kunwar.*—1937 A. L. J. 177.

Agriculturists' Relief Act Schedule III. S. 30.—S. 2 (10) (*b*) **secured loan** what is—

In a suit on a mortgage deed the plaintiff abandoned his security and obtained a simple money decree. Subsequently the debtor applied under S. 30 of the Agriculturists' Relief Act for reduction of interest—

Held :—As the loan was originally a secured loan it must be treated as a secured loan and the lower rates provided in Schedule III should be applied. The mere fact that the plaintiff abandoned his security cannot affect the case otherwise every creditor would use it as a device and defeat the provisions of the Act.

Under S. 2(10)(*b*) secured loan is defined as " a loan for which property other than agricultural produce is specifically hypothecated as security." The "correct date for the division of loans into two classes is the date on which the loan is taken."

CASE-LAW ON ENCUMBERED ESTATES ACT.

Sitla Bakhsh Singh vs. *Balchand and others*, A. I. R. 1937 Oudh. 25.

Encumbered Estates Act S. 7.—Proceedings before the District Registrar for compulsory registration of a sale-deed—cannot be said to be in respect of any public or private debt of the applicant and are therefore not liable to be stopped under S 7 of the Encumbered Estates Act.

Birj Kishore v. *Parshottam Das*, 1937 A. L. J. 158.

Encumbered Estates Act S. 7. and S. 48.—Application to the Collector under the Act by a debtor pending application for insolvency by creditor—Collector passing

order under S. 6 before adjudication—debtor applying stay to proceedings in insolvency :—

Held (1) That the insolvency court is a Civil Court as S. 5 (2) of the Insolvency Act provides "that.....the Courts shall have the same powers and shall follow the same procedure as they respectively have and follow in regard to civil suits."

(2) That S. 48 does not take the case out of the general provisions of S. 7 of the Encumbered Estates Act because otherwise two courts would concurrently proceed to liquidate the same debts out of the same property which is absurd.

CASE-LAW ON USURIOUS LOANS U. P. AMENDMENT ACT.

Ibney Hasan vs. *Gulkandi Lal*, 1936 A. L. J. 919.

Usurious Loans Act S 3—Scope of proviso :—In a suit on the basis of a mortgage an *ex parte* decree was passed against the mortgagors and a subsequent transferee. The subsequent transferee got it set aside and proceeded to defend the case. Eventually a decree was passed on merits. He contended in appeal that the decree ought to have been reduced under S. 3 of the Usurious Loans Act, *Held* that by virtue of the proviso no court could pass any order so as to affect any decree The words are wide enough to include a decree which is not even *inter partes*. So as the *ex parte* decree against other defendants had become final the proviso applied and court could not reopen the transaction so as to affect that decree.

Ram Narain vs. *Mahmood Hasan*, 1936 A. L. J. 510.

Usurious Loans Act S. 3 Proviso.—Where a decree has already been passed "the court can modify the decree only under the provisions of Agriculturists' Relief Act" The (Usurious Loans) Act itself clearly says that in exercise of the power given by S 3 of the Act no Court shall do any thing which affects any decree of a court." "So the court obviously has no jurisdiction to interfere with the rate of interest before January 1, 1930, either under the Agriculturists' Relief Act or under the Usurious Loans Act."

Misri Lal vs. *Alexander Gardner*, A. I. R. 1936 All 697.

Usurious Loans Act.—Amendment by U. P. Act 22 of 1934—No retrospective effect—Amendment does not apply to cases filed before the Act came into force.

X9(J):(7252) 1.

96

REVENUE DEPARTMENT

MISCELLANEOUS

8th October, 1936

30

No. 2271/I—93.—In continuation of Government notification no. 2052/I-A, dated the 6th February, 1934, and in supersession of Government notification no. 1887/I—238, dated the 7th October, 1911, the Governor in Council has, in exercise of the power conferred by section 68 of the Code of Civil Procedure 1908, declared that the execution of decrees, in cases in which a civil court has ordered any agricultural land situated in the United Provinces of Agra and Oudh, or any interest in such land, to be sold, shall be transferred to the Collector; and has made the following rules for the matters set out in section 70 of the Code:

RULES

(These rules will be reproduced as paragraphs 967 to 1012 in the Manual of Orders of the Government of the United Provinces in the Revenue Department. The numbers given below are those of paragraphs of the Manual.)

967. The term "agricultural land" in these rules means—

(*a*) Land as defined in the Agra Tenancy Act, III of 1926, or the Oudh Rent Act, XXII of 1886, but does not include standing timber, standing crops, or any other ungathered produce of land when sought to be sold apart from the land itself; or

(*b*) the interest of the holder of a grant or assignment of land revenue conferred by the British or any former Government on him, or on a person from whom he has directly or indirectly received such interest.

968. When a court has ordered any agricultural land to be sold in execution of a decree it shall transmit by post, or in such other manner as may be most convenient, a copy of the decree along with the papers mentioned in paragraph 972 and the initial process-fee, according to the scale fixed for revenue courts, after realizing it from the decree-holder, to the Collector of the district in which the property, or the greater portion thereof, is situated or is held to be situated after the reference prescribed in paragraph 971.

969. If, after the decree has been transmitted, any claim to the property ordered to be sold or any objection to the sale be preferred to the court that ordered sale, the court may, if it see fit, recall the decree and proceed to dispose of the claim or objection. When, notwithstanding such claim or objection, the order for sale of the property is maintained by the court, the decree shall be retransmitted to the Collector. If such claim or objection be preferred to the Collector, the claimant or objector shall be referred by him to the court that ordered sale.

970. Similarly, when it appears to the Collector appointed by a Court under Order XXI, rule 65, of the Code of Civil Procedure, 1908, to conduct a sale, that the land is agricultural land, he may forward a statement of his opinion together with the grounds thereof to the court so appointing him. Such court after enquiry, if necessary, shall decide whether or not the land is agricultural, and shall, in accordance with such decision, which shall be binding on the Collector, either cancel the order made under Order XXI, rule 65, and transfer the decree for execution to the Collector, or shall direct him to proceed with the sale.

971. If there be any doubt as to the (*a*) district, or (*b*) division, in which the property, or the greater portion thereof, is situated, the civil court shall refer the question in case (*a*) to the Commissioner of the Division,

and in case (*b*) to the Government, who shall, as soon as may be, decide upon such reference and the civil court shall thereupon transfer the decree accordingly. The Collector to whom the decree is thus transferred shall have power to deal with the property ordered to be sold wherever it may be situated, and, if he eventually take action under the third schedule of the Code of Civil Procedure, 1908, to deal with the whole property of the judgment-debtor.

972. Along with the said copy of the decree or decrees in execution of which the court has ordered the property to be sold, the court shall send—

(1) a statement showing the extent, if any, to which the decree has been already executed, and clearly setting forth what portion of the decree still remains to be satisfied;

(2) a copy of the application for execution of the decree and the order made thereon for sale;

(3) a statement showing as clearly as possible of what property, and of what rights and interest of the judgment-debtor in such property, so far as they are known to the court, sale has been ordered;

(4) a statement of the grounds on which such court has held the property to be agricultural;

(5) the certificate of search for encumbrances by the sub-registrar filed by the decree-holder with his application; and

(6) any other papers which may be considered necessary in order to enable the Collector to ascertain exactly the nature of the decree, the property of which sale has been ordered, and the rights and interests therein of the judgment-debtor.

973. The aforesaid documents shall be prepared and transmitted to the Collector free of all cost to the parties, the copies, statements or papers being prepared by the court establishment.

974. The Collector shall notify to the court the receipt of the said documents, and shall register the decree in a book to be kept for the purpose in the following form:

Register of decrees received from civil courts for execution by the Collector of in 19

Serial number	Number of decree	Date of decree	Name of decree-holder and judgment debtor.	Date of transmission of decree	Date of receipt of decree by Collector	Amount for which execution is ordered	Property of which sale is ordered	Nature of decree	Decree how executed	Date of re-transmission of decree to civil court	Remarks
1	2	3	4	5	6	7	8	9	10	11	12

975. If the certificate of search for encumbrances by the sub-registrar has not been filed by the decree-holder, the Collector shall call upon the decree-holder to obtain and file such certificate within a time to be fixed, failing which the decree may be returned to the court unexecuted.

976. The Collector shall, without delay, appoint a day for hearing any representations which the parties to the decree or any of them or any person interested in the execution of the decree may desire to make as to the manner in which the decree shall be executed, and shall cause a written notice to be served on each of the parties of the day so fixed. The Collector may, from time to time by similar written notice, require the attendance of the parties or any of them, for the purpose of ascertaining their wishes or of obtaining information which he may consider necessary to enable him to provide satisfactorily for the execution of the decree; and if any party do not attend in pursuance of any such notice, the Collector shall decide the matter in his absence, and he shall not afterwards be heard with respect thereto.

977. For the purpose of ascertaining the encumbrances to which the property is liable, the Collector may cause a written notice to be served on any person whom he thinks necessary and may examine him in respect to any such encumbrances and require him to produce any document in his possession or power relating thereto.

978. Should the Collector receive two or more decrees from the same civil court or from different courts for the sale of the same property, he shall act as follows :—

(1) If all the orders of sale are from the same court, the Collector shall inquire, by reference to the court, whether the sale shall be held in pursuance of all the orders or of one only, and, if of one only, then of which one ;

(2) If the orders for sale have been received from different courts and there is a difference of grade between such courts, the sale shall be held in pursuance of the order of the court of highest grade, intimation being given, immediately after sale, to the other courts that such sale was held in pursuance of the order of that court ;

(3) If the orders for sale have been received from different courts of the same grade, the Collector shall ascertain the date of the attachment made by each of them, and hold the sale in pursuance of the order of the court by which the property was first attached, intimation being given, immediately after sale, to the other courts that such sale was held in pursuance of the order of that court ;

(4) When the property has been ordered to be sold in pursuance of decrees of more courts than one, but the sale is held in pursuance of the order of only one such court, the Collector shall intimate to intending purchasers, at the time of sale, the fact that other courts also have ordered the same property to be sold.

979. The Collector shall scrutinize the decree with a view to ascertaining if it is a decree which directs the sale of agricultural property in pursuance of a contract specifically affecting the same, or is merely a decree for the payment of money in satisfaction of which the court has ordered the sale of agricultural land.

980. If the decree be one directing the sale of agricultural property in pursuance of a contract specifically affecting the same, the Collector, after hearing the representations of the parties, shall proceed to determine

which of the methods allowed by the first paragraph of the third schedule is the most suitable in the circumstances of the case. For the purpose of clause (*a*) of the said paragraph the period within which the amount of the decree must be paid to the Collector shall not exceed six months from the date of the receipt of the decree by the Collector. For the purpose of clause (*b*) the sum required must be raised and deposited in the treasury within nine months from the same date. Whenever the Collector deems it inadvisable to act under clause (*a*) or clause (*b*), or in case it has been found impossible to raise the sum required by either of these methods, the Collector shall proceed to sell the property or so much thereof as may be necessary according to the provisions of paragraph 10 of the third schedule and of the following rules.

981. If the decree be one which does not order the sale of property in pursuance of a contract specifically affecting the same but is a decree for the payment of money in satisfaction of which the court has ordered the sale of agricultural property, the Collector shall proceed to make a summary inquiry as laid down in paragraph 2 of the third schedule, into all the liabilities of the judgment-debtor and the extent of his available immovable property. Such inquiry shall not extend beyond sixty days from the date of the receipt of the decree.

982. After completing the summary inquiry the Collector shall draw up a proceeding in English, setting forth the steps he has taken, his reasons for so doing and the result of his inquiry.

(*a*) If the Collector is of opinion that all the liabilities of the judgment-debtor cannot be discharged without the sale of the whole of the immovable property he shall record his opinion and proceed to sell only the property ordered to be sold.

(*b*) If the Collector is of opinion that all the liabilities of the judgment-debtor can be discharged without the sale of the whole of the available immovable property, he shall record his opinion with the grounds therefor and, after entering the case in a register sub-joined to this rule, shall take action under paragraph 3 or 5 of the third schedule as the case may be.

The Collector shall ordinarily proceed according to paragraph 5 of the third schedule unless it is evident from the preliminary inquiry that no complicated question requiring to be determined by the civil court is likely to arise.

When the amount to be recovered and the property available have been determined in accordance with paragraphs 3 and 4 or paragraph 5 of the third schedule, the Collector shall proceed according to paragraph 7 thereof.

Register of cases in which the Collector of _____ executes decrees otherwise than by sale in _____

Serial number in register of decrees	Number of decree and name of court	Names of decree-holder and judgment-debtor	Amount for which execution is ordered	Property of which sale is ordered	Date of publication of notice under paragraph 3 of the third schedule	Mode adopted by Collector for raising amount necessary	Date of complete execution	Date of re-transmission of decree to civil court	Remarks
1	2	3	4	5	6	7	8	9	10

983. (1) When the Collector decides to sell property in execution of the decree transferred, he shall cause a proclamation of the intended sale to be made in the language of his court.

(2) For the purpose of ascertaining the matters to be specified in the proclamation, the Collector shall, after notice to the decree-holder and to the judgment debtor, inquire into the following points:

(*a*) the property to be sold,

(*b*) the revenue assessed upon the estate or part of the estate where the property to be sold is an interest in an estate or in part of an estate paying revenue to the Government;

(*c*) any encumbrance to which the property is liable;

(*d*) the amount for the recovery of which the sale is ordered;

(*e*) the number of lots in which the Collector proposes to sell the property, if he considers that the property should not be sold in one lot, and the reserved price fixed for each lot, and

(*f*) every other thing which the Collector considers material for a purchaser to know in order to judge of the nature and the value of the property.

NOTE—If the property to which the encumbrance mentioned in clause (*c*) attaches is more than the property mentioned in clause (*a*), the whole of the property should be specified in the proclamation.

(3) In conducting the inquiry mentioned in sub-paragraph (2) the Collector may summon any person whom he thinks it necessary to summon and may examine him in respect of any such matters, and require him to produce any document in his possession or power relating thereto.

984. (1) After hearing the decree-holder and the judgment-debtor in pursuance of the notice issued under paragraph 983(2) and any persons summoned in accordance with paragraph 983(3) and considering any document produced under that rule, the Collector may modify or maintain the arrangements proposed by him about sale in lots and the reserved price as he thinks fit.

(2) In cases in which the sum of the decretal amount and the encumbrance on the property to be sold is less than the value of that property, the Collector, when making proposals regarding the sale in lots shall take into account only that proportion of the encumbrance which appertains to the lot or lots proposed for sale. In order, however, to give full information to intending purchasers he shall in the proclamation issued under paragraph 983(1) declare the whole amount of the encumbrance and the whole property to which it appertains.

EXAMPLE 1—*Where only a single share is involved.*

Suppose the decretal amount is Rs.950 and the encumbrance on the property is Rs.1,500 the estimated value of the property being Rs.4,500. The first lot or sets of lots to be proposed for sale for the recovery of the decretal amount, Rs.950, should bear the same proportion to the entire property as the decretal amount does to its net value (Rs 4,500 — Rs.1,500 =Rs.3,000). Thus in this case the proportion to be sold will be the fraction 950/3,000 of the attached property, its value being Rs.950÷3,000 × Rs.4,500 = Rs.1,425. This is the (gross) value of the property required to be sold in order to satisfy the decree. Its value is made up of Rs.950, the decretal amount, and Rs.475, the proportionate encumbrance on the share sold, i.e., Rs.1,500 × Rs.950÷3,000.

EXAMPLE 2—*Where several shares have been attached and where these shares are jointly subject to encumbrance.*

The above method will apply, Rs.4,500 representing in such a case the total estimated value of all the encumbered shares and Rs. 1,500 the encumbrance to which they are all jointly subject. Thus, suppose the property consists of three shares of unequal value, separately valued at Rs.1,000, Rs.1,500 and Rs.2,000 (total Rs.4,500), jointly subject to an encumbrance of Rs.1,500, the decretal amount being Rs.950. As in example 1 above, the property of the estimated gross value of Rs.1,425 must be sold in order to satisfy the decree and the first lot or lots should be prepared accordingly.

EXAMPLE 3.—*Where several shares, some free from encumbrance and some not, have been attached.*

The above method can be easily extended. As far as possible the lots should consist of whole shares, and it should normally be necessary to propose for sale a fractional part of only one of the shares. Thus, suppose the property to consist of four shares valued at Rs.500, Rs.750, Rs.1,500 and Rs.1,750 (total Rs.4,500), subject to encumbrances nil, Rs.400, Rs.1,250 and Rs.1,000, respectively, the whole having been attached for the recovery of Rs.1,400. The net values of the four shares are respectively Rs.500, Rs 350, Rs.250 and Rs.750. The first lot might then conveniently consist firstly, of the whole of the first and fourth shares, net value Rs.1,250, leaving Rs.150 to be recovered from the rest of the property. According to the method detailed in example 1 above, this may be recovered by sale of either a fraction 150/350 of the second share or 150/250 of the third share, such

share, along with the first and fourth shares, constituting the first lot to be proposed for sale.

NOTES—(1) A suitable fraction, though slightly different from that worked out in the above example should be offered for sale, if necessary, in order to prevent an inconvenient sub-division of a share or specific plots. For instance:

(*a*) The property for sale consists of an odd fraction of a zamindari share, say 2 annas 3¾ pies. If half or one-third of the property is to be sold according to the above calculation, the result will be an inconvenient sub-division of the share. In such cases the Collector should sell a 1 anna 2 pies or a ten pies share, as the case may be.

(*b*) Where specific plots are offered for sale, the Collector should sell whole plots of the proper value rather than a fractional share in each plot.

(*c*) In example 2 above the whole of the second share valued at Rs.1,500 might conveniently constitute the first lot.

(2) In determining the amount of the encumbrance, the Collector shall calculate the amount of the interest due to date under the provisions of the law then in force and shall add it to the principal.

985. After hearing the parties and any other person whom he has summoned, the Collector shall record a finding on each of the points mentioned in paragraph 983(2).

986. (1) In the case of ancestral land in Oudh, the Collector shall, after recording the finding mentioned in paragraph 985, submit to the Commissioner, in the form appended at the end of these rules, a request for the permission of His Excellency the Governor to the sale (section 20 of the Oudh Laws Act, XVIII of 1876, as amended by Act III of 1912).

(2) If there is any doubt or dispute whether the land to be sold is ancestral land within the meaning of section 20 of the Oudh Laws Act, XVIII of 1876, as amended by Act III of 1912, the Collector shall determine the question after making such inquiry as may be necessary. Such decision of the Collector shall be final.

987. (1) The Collector (after receipt in Oudh of the permission of His Excellency the Governor to the sale, in the case of ancestral land), shall issue a proclamation specifying his finding on each of the points mentioned in sub-paragraph (2) of paragraph 983 and stating the time and place of sale. He shall cause it to be published by beat of drum or other customary mode at some place on or adjacent to the property to be sold, and a copy to be affixed on a conspicuous part of the property and in the office of the Collector and in the court house of the court which passed the order for sale.

(2) Where the Collector so directs, such proclamation shall also be published in the local official *Gazette* or in a local newspaper, or in both, and the cost of such publication shall be deemed to be part of the costs of the sale.

(3) Where property is divided into lots for the purpose of being sold separately, it shall not be necessary to make a separate proclamation for each lot, unless proper notice of the sale cannot, in the opinion of the Collector, otherwise be given.

988. No sale shall, without the consent in writing of the judgment-debtor, take place until after the expiration of thirty days calculated from the date on which the copy of the proclamation has been affixed in the court-house of the Collector.

989. The Collector may, in his discretion, adjourn any sale hereunder to a specified day and hour; and the officer conducting any such sale may, in his discretion, adjourn the sale, recording his reasons for such adjournment. Where a sale is adjourned under this rule for a longer period than fourteen days, a fresh proclamation shall be made, unless the judgment-debtor consents to waive it provided that the Collector may dispense with

the consent of any judgment-debtor who has failed to attend in answer to the notice issued under paragraph 983(2).

990. Every sale shall be stopped if, before the lot is knocked down, the amount of the debt and costs (including the costs of the sale) are tendered to the officer conducting the sale, or proof is given to his satisfaction that the amount of such debt and costs has been paid to the Collector who ordered the sale.

991. Where a decree-holder purchases the property sold, the purchase money and the amount due on the decree may, subject to the provisions of section 73 of the Code, be set off against one another, and the Collector executing the decree shall enter satisfaction of the decree in whole or in part accordingly.

992. No officer or other person having any duty to perform in connexion with any sale shall, either directly or indirectly, bid for, acquire, or attempt to acquire, any interest in the property to be sold.

993. (1) On every sale of immovable property, the person declared to be the purchaser shall pay, immediately after such declaration, a deposit of twenty-five per cent. on the amount of his purchase money to the officer or other person conducting the sale. In default of such deposit, the property shall forthwith be resold.

(2) Where the decree-holder is the purchaser, and is entitled to set off the purchase money under paragraph 991, the Collector may dispense with the requirements of this rule.

994. The full amount of purchase money payable shall be paid by the purchaser to the Collector before his office closes on the fifteenth day from the sale of the property:

Provided that in calculating the amount to be so paid to the Collector, the purchaser shall have the advantage of any set-off to which he may be entitled under paragraph 991.

995. In default of payment within the period mentioned in the last preceding rule, the deposit may, if the Collector thinks fit, after defraying the expenses of the sale, be forfeited to the Government, and the property shall be resold and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may subsequently be sold.

996. Every resale of immovable property, in default of payment of the purchase-money within the period allowed for such payment, shall be made after the issue of a fresh proclamation in the manner and for the period hereinbefore prescribed for the sale.

997. Any deficiency of price which may occur on a resale by reason of the purchaser's default, and all expenses attending such resale, shall be certified to the Collector by the officer holding the sale, and shall, at the instance of either the decree-holder or the judgment-debtor, be recoverable from the defaulting purchaser under the provisions relating to the execution of a decree for the payment of money.

998. Where the property sold is a share of undivided immovable property and two or more persons, of whom one is a co-sharer, respectively bid the same sum for such property or for any lot, the bid shall be deemed to be the bid of the co-sharer.

999. (1) Where immovable property has been sold in execution of a decree, the judgment-debtor or any person deriving title through the judgment-debtor, or any person holding an interest in the property, may apply to have the sale set aside on his depositing with the Collector—

(*a*) for payment to the purchaser, a sum equal to five per cent. of the purchase-money, together with the amount realized as poundage from the purchaser under paragraph 1007, and

(*b*) for payment to the decree-holder, the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered, less any amount which may, since the date of such proclamation of sale, have been received by the decree-holder.

(2) Where a person applies under paragraph 1000 to set aside the sale of his immovable property, he shall not, unless he withdraws his application, be entitled to make or prosecute an application under this rule.

(3) Nothing in this rule shall relieve the judgment-debtor from any liability he may be under in respect of costs and interest not covered by the proclamation of sale.

(4) If the application to have the sale set aside is disallowed, the deposit required by this rule shall be repaid to the applicant.

1000. Where any immovable property has been sold in execution of a decree, the decree-holder, or any person entitled to share in a rateable distribution of assets, or whose interests are affected by the sale, may apply to the Collector to set aside the sale on the ground of a material irregularity or of fraud in publishing or conducting it:

Provided that—

(*a*) no sale shall be set aside on the ground of irregularity or fraud unless, upon the facts proved, the Collector is satisfied that the applicant has sustained substantial injury by reason of such irregularity or fraud;

(*b*) no such application shall be entertained upon ground which could have been taken by the applicant on or before the date on which the sale proclamation was drawn up.

1001. (1) Where no application is made under paragraph 999 or paragraph 1000, or where such application is made and disallowed, the Collector shall make an order confirming the sale, and thereupon the sale shall become absolute:

Provided that, in any case in which the sale has been conducted by an assistant collector under paragraph 1010, if the Collector, after giving notice to all persons affected and hearing their objections (if any), considers the price offered inadequate, he may refuse to confirm the sale, and the property shall thereupon be put up again to auction.

(2) Where such application is made and allowed, and where, in the case of an application under paragraph 999, the deposit required by that paragraph is made within 30 days from the date of sale, the Collector shall make an order setting aside the sale: provided that no order shall be made unless notice of the application has been given to all persons affected thereby.

(3) No suit to set aside an order made under this rule shall be brought by any person against whom such order is made.

1002. Where a sale of immovable property is set aside under paragraph 1001 the purchaser shall be entitled—

(*a*) in the case of a sale set aside on an application under paragraph 999 to an order sanctioning his withdrawal of the deposit made under paragraph 999(1) (*a*) and

(*b*) in the case of a sale set aside on an application under paragraph 1000 to an order for refund of the poundage dues paid by him under paragraph 1007 (2), and

(*c*) in either case, to an order for repayment of his purchase-money less the poundage (if any) deducted under paragraph 1007 (2) (*b*), with or without interest as the Collector may direct, against any person to whom it has been paid.

1003. Where a sale of immovable property has become absolute the Collector shall grant a certificate specifying—

(1) the property sold,

(2) the name of the person who at the time of the sale is declared to be the purchaser,

(3) the encumbrance and the whole of the property to which it attaches.

Such certificate shall bear the date of the day on which the sale became absolute.

1004. When the property sold is a taluqa, the Collector shall, in the first instance, sell the rights of the taluqdar in all sub-settled villages, in one or more lots. If the sale proceeds of such rights are insufficient to satisfy the decree, he shall then proceed to sell the other villages.

1005. Sales shall be conducted by the Collector in person, or by an assistant collector specially appointed by him in this behalf. They shall be held on the twentieth day of each month: provided that if such day be either a Sunday or a close holiday sanctioned by the Government or by the High Court, or the Chief Court, they shall be held on the first day thereafter on which the office reopens.

1006. The Collector shall not buy in the property under clause (*c*) of rule 10 of the third schedule without the previous sanction of the Governor in Council. In case the Collector deems it necessary to have the power of buying in the property, he shall submit his proposals to this effect through the Commissioner of the division for the orders of the Governor in Council.

1007. (1) In all cases of sale of revenue-paying property by a Collector or Deputy Commissioner in execution of a decree the rate of poundage is one per cent.

(2) The poundage fee shall be realized:

(*a*) where under paragraph 993(2) no deposit is required by the person conducting the sale from the decree-holder before he is declared the purchaser,

(*b*) where under paragraph 993(1) a deposit is required by deduction by the Collector from the deposit.

When realized the money shall be credited to Government.

1008. If sale was made under paragraph 980 or paragraph 982(*a*), the Collector shall, as soon as may be after confirmation of the sale, retransmit the decree and all papers received therewith to the court by which the decree was transmitted, together with a report of his proceedings and an account showing the moneys realized under the decree and the sum held at the disposal of the court. All subsequent proceedings in connexion with the decree and delivery of possession to the purchaser shall be taken under the orders of the court.

1009. If the property was sold otherwise than under paragraph 980 or paragraph 982(*a*), delivery of possession to the purchaser shall be made by the Collector, and the two following sub-rules shall apply to his proceedings:

(*a*) where the immovable property sold is in the occupancy of the judgment-debtor or of some person on his behalf, or of some persons claiming under a title created by the judgment-debtor subsequently to the attachment of such property and a certificate in respect thereof has been granted under paragraph 1003 the Collector shall, on the application of the purchaser, order delivery to be made by putting such purchaser, or any person whom he may appoint to receive delivery on his behalf, in possession of the property, and, if need be, by removing any person who refuses to vacate the same.

(*b*) Where the property sold is in the occupancy of a tenant or other person entitled to occupy the same and a certificate in respect thereof has been granted under paragraph 1003, the Collector shall, on the application of the purchaser, order delivery to be made by causing a copy of the certificate of sale to be affixed in some conspicuous place on the property, and by proclaiming to the occupant by beat of drum or other customary mode, at some convenient place, that the interest of the judgment-debtor has been transferred to the purchaser.

1010. For the purposes of these rules the Collector may make over to any assistant collector of the first class any of the powers and duties thereby conferred and imposed upon the Collector, with the exception of the following:

(1) power to order sale under paragraph 1(*c*) or paragraph 8 of the third schedule;

(2) power to take action under paragraph 3 or paragraph 5 of the third schedule;

(3) power to let or mortgage under paragraph 1(*b*) of the third schedule;

(4) power to let, mortgage, or order direct management under paragraph 7(1)(*b*) of the third schedule;

(5) power to raise funds for and discharge encumbrances under paragraph 7(3) of the third schedule;

(6) power to confirm sale under paragraph 1001;

(7) power to set aside sale under paragraph 1001.

1010A. The Collector shall submit, on 15th April and 15th October each year a return in the following form to the Commmissioner, showing the progress of execution proceedings in all Civil courts decrees, relating

to agricultural land or any interest in such land, which have been transferred to him for execution:

Serial number	Number of decree with date	Name of parties and of court which passed the decree	Date of receipt of decree by Collector	Mode adopted by Collector for raising amount necessary	Cause of delay in execution	Remarks
1	2	3	4	5	6	7

NOTES—(1) Only cases which were received by the Collector before 1st July and 1st January and are pending on 31st March and 30th September respectively should be shown in the returns.

(2) *Pending cases only* should be shown in the returns. Cases in which the files have been returned to the Civil courts concerned should not be shown.

(3) The cause of delay in column 6 of the return should be given in respect of the six oldest cases only.

1011. All orders passed by an assistant collector under powers delegated to him by the Collector under paragraph 1010 shall be appealable to the Collector whose order shall be final. Appeals from the orders passed by the Collector shall lie to the Commissioner of the division in the following cases and in no others:

(1) by a decree-holder of judgement-debtor from an order under paragraph 1(*b*) of the third schedule letting the property, on the sole ground that the lease or mortgage is an unreasonable one;

(2) by a judgment-debtor from an order for sale under paragrap 1(*c*) of the third schedule provided that substantial security for th satisfaction of the decree be at the same time furnished by him;

(3) by a decree-holder, judgment-debtor or claimant against a order under paragraph 4 of the third schedule, regarding the fact extent of the liability of the judgment-debtor to any of the decrees claims or as to their relative priority, or as to the liability of th judgment-debtor's immovable property for satisfaction of them, on th sole ground that a dispute exists on one or all of these points and th the Collector should have referred the dispute to the civil court;

(4) by a judgment-debtor from an order under paragraph 7(1) (*a*) the third schedule: provided that substantial security be at the sam time furnished by him;

(5) by a decree-holder or judgment-debtor from an order und paragraph 7(1)(*b*) or paragraph 7(3) of the third schedule for sale, lea or mortgage of the property on the sole ground that the sale, lease mortgage is an unreasonable one;

(6) by a decree-holder from an order of the Collector directin management under paragraph 7(1)(*b*) (iv) of the third schedule, the ground that there is no reasonable expectation of the decree bei satisfied within the specified period;

(7) by a judgment-debtor from an order for sale under paragraph of the third schedule, on the sole ground that the amount to be recove ed has been realized and on condition that he furnishes security f payment within six weeks of the balance, if any, found to be due;

(8) by a decree holder or judgment-debtor or a person whose i movable property has been sold under the rules from an order confir ing or setting aside a sale;

(9) by a decree-holder from an order of the Collector declining proceed with the sale under paragraph 980 although the Collector h deemed it inadvisable, to act under paragraph (1)(*a*) or (*b*) of t third schedule, or found it impossible to raise the sum required either of these methods,

1011A. The Board of Revenue may, on the application of a party the case, or on report made, or on its own motion, call for the record any case which has been decided by the Collector or Commission and in which no appeal lies, and if the Collector or Commission appears—

(i) to have exercised a jurisdiction not vested in him by law,

(ii) to have failed to exercise a jurisdiction so vested, or

(iii) to have acted in the exercise of his jurisdiction illegally with material irregularity,

the Board of Revenue may pass such order in the case as it thir fit.

1012. Fees for the service of processes prescribed by paragraph 9 and fees for the proclamation issued under paragraph 983 shall be lev according to the scale laid down for processes issued by a revenue cou These fees shall, in the first instance, be paid by the decree-holder a be treated as costs in the suit.

*Request by the Deputy Commissioner of*_____
for the permission of the Governor in Council to the sale of immovable property in execution of a decree.

Name of court ordering sale _____

Number of decree_____

Date of decree, with section and Act under which passed.

Number in Deputy Commissioner's register of decrees transferred _____

Name and address of decree-holders.

Name and address of judgment-debtors.

	Principal	Interest	Costs	Total	Rate at which future interest has been allowed by the court.
ount decreed					
ount realized					
ance still due					

Particulars of the estate to be sold.

Village and pargana (or muhalla and thana)	Ancestral or acquired proprietary or under-proprietary	Share therein	Area	Income, including rental of *sir* at full rates	Revenue and other dues	Net profit	Value including value of houses and groves

Mortgages (other than on which execution is being taken out)

Village	*To be a charge on property.*				
	Name of mortgagee and date of mortgage	Mortgage money and share mortgaged.	Simple or usufructuary	Amount of *sir* specifically mortgaged.	Rate of interest

Village	*Not to be a charge on property*				
	Name of mortgagee and date of mortgage	Mortgage money and share mortgaged	Simple or usufructuary	Amount of *sir* specifically mortgaged	Rate of interest

Date of the last application for execution against immovable property——

Report by Deputy Commissioner

Details of judgment-debtor's cultivating holding

Name of village	Area of holding		Date from which *khudkasht* has been held (continuously) in cultivation
	Sir	*Khudkasht*	
Total ..			

Particulars showing the nature of the debt, the objections raised by the judgment-debtors, and the means tried to secure liquidation with the reasons for advocating sale.

No.

Dated

FORWARDED to the Commissioner of the division.

Deputy Commissioner.

Remarks by the Commissioner

No.

Dated

FORWARDED to the Secretary to Government, United Provinces (Revenue Department).

Commissioner.

REVENUE DEPT.—

Orders by the Governor in Council

No.

Dated

Sale sanctioned as recommended by the

Secretary to Govt., United Provinces.

A GLANCE AT THE ECONOMIC PROBLEM OF THE NORTH WEST FRONTIER PROVINCE

BY

S. Datt, B. A. LL. B.

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CONTENTS.

	Preface.		ii—iii
Chapter I.	General.	Pages ...	1—5
Chapter II.	Causes of agricultural indebtedness.	...	6—16
Chapter III.	Money-lender	...	17—26
Chapter IV.	Trend of legislation.	...	27—35
Chapter V.	Conclusions.	...	36—42

PREFACE.

My only object in writing this brochure is to focuss public opinion on the significance of the economic problem of the North-West Frontier Province, for economic issues, in the long run, transcend political wrangles of a transitory nature. Political power, it will be conceded, is not of much use, and, indeed, fails in one of its most essential objects, if it is not wielded in a manner conducive to ameliorating the economic condition of the people. And since with the advent of provincial autonomy an immense field has been thrown open to the elected representatives of the people to do solid constructive work, I have felt that the occasion calls for a small pamphlet of this nature which clearly throws light on some of the incontrovertible facts about the Frontier.

I do not claim any originality for the contents of this pamphlet. All that I have done and all that I could possibly do in view of my meagre resources and the limited time at my disposal, has been to collect and collate a large mass of information contained in massive Government reports and other publications, which are generally out of the reach of the average reader, and present it in a readable form. The treatment of the subject may seem novel, but it has the merit of being logical.

I have endeavoured to prove that, in the absence of any other industry in the Province,

the pressure of poulation on the land has greatly increased and that unless adequate steps are taken to lighten this burden, the economic condition of the peasantry cannot improve, not-with-standig indebtedness legislation to the contrary.

I believe that there will be general agreement with the main conclusions arrived at in this pamphlet which, I claim are absolutely of a non-controversial and non-contentious nature. I shall consider myself amply compensated for all the pains I have taken incompiling this pamphlet if I succeed, even fractionally, in arousing real interest in the subject.

No body is more conscious than myself of the numerous shortcomings of this pamphlet. These I hope to remove in the next edition, should it be called, Any suggestions for improvement will be gratefully accepted.

Peshawar.

27-7-38. S. DATT.

CHAPTER I.

GENERAL.

The North-West Frontier Province is mainly an agricultural Province with no large-scale industries worth the name in it. It has a total population of 2,425,076[1] and an area of 13,518[2] square miles. Its population lives largely in villages, varying in size according to the nature of the country and the proximity or otherwise of urban centres to them, and it can boast of only one city, that is, Peshawar, which has a population of more than one lakh.[3] Since more than 75% of the population of the Province is dependent on agriculture, it is the bounden duty of every Government, whatever its complexion, to strive its utmost to contribute to the health, happiness and well-being of the agriculturists, for the prosperity of the Province is indissolubly linked up with their prosperity. More-over, it is they who pay nearly 5½ lakhs (21 lakhs as revenue from land and Rs. 11½ lakhs as irrigation fees) out of the total

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1. N.W.F.P. Census Report, P-5.
2. Ibid P-4.
3. Ibid P-41.

income of the Province, which is Rs. 75 lakhs per annum. Thus, from the purely economic point of view, it is clear that the more the Government succeeds in ameliorating the economic condition of the agriculturists, the more will its income grow, enabling it to spend more on such beneficent activities as Education, Public Health, good roads, etc. etc. Besides this, a contented peasantry is a *sine qua non* to any future progress of the Province, whether social, political or economic. It is, therefore, on these and other grounds highly necessary to devote adequate attention to the problem of improving the unenviable lot of the agriculturists lest the situation, through indifference or inactivity or both on the part of the powers that be, should assume a serious turn from which any come-back may be extremely difficult.

In the long and chequered history of the world every age has had its own problems and it has been the business of those at the helm of power to find their solution according to their own lights. History shows that where the problem has been wisely handled and its solution found after careful consideration of all aspects of the case, lasting good has been done to the populace. On the contrary, where quack remedies have been applied, the malady, though temporarily overcome, again overtook those, whom it was intended to benefit, in a still more worse form. It is, therefore, the first and foremost duty of those who are placed in

authority to have a broad vision and to strive for permanent good rather than immediate benefit of an illusory character.

The problem of the North-West Frontier Province is the problem of its agriculturists who, as stated above, form a preponderatingly large proportion of the total population. They are steeped in debts, are mostly illiterate and are passing through admittedly hard times. The problem is, to put it briefly, to enable them to support themselves and their families and to give to their children the benefit of education. Thus what is needed is to devise suitable ways and means to increase their purchasing power. To hope that any remedy that actually falls short of increasing the income of the agriculturists and tackles the question only piece-meal will solve the problem, is to delude oneself in a sense of false security. Such a course of action is bound to do more harm than good in the long run, for the laws of economics are inexorable in their operation. This emphasises the necessity of a comprehensive agricultural policy that should have as its object the lightening of the growing pressure of population on the soil and the starting of suitable cottage industries, to supplement the income of the agriculturists.

The problem of agricultural indebtedness that at present looms large on the surface of Indian politics is only a part of the problem and not the whole of it. It cannot be solved without solving the major problem, and that is how to increase

the income of the poverty-stricken agriculturists. It is not a new problem that has suddenly manifested itself to an unexpecting world. It has been present all these years though it is undoubtedly a fact that it has assumed a more or less serious form since the unprecedented economic depression, from whose paralysing effects on trade and industry most of the industrial countries in general and the agricultural countries in particular have not yet fully recovered, started in 1927. According to official estimates, the total agricultural indebtedness of the North-West Frontier Province is in the neighbourhood of Rs. 9[1] crores on which the interest paid is about six times the annual land revenue receipts of the Province. The accuracy of this figure has been challenged by some members of the Assembly,[2] but it is admitted on all hands that the indebtedness of the peasantry is fairly acute and calls for immediate attention.

It is a belief commonly, albeit erroneously, held that if only the existing debts of the peasants are written off by legislation, an era of prosperity will dawn for the peasants. This is only a catch-word and, like most catch-words, is far removed from truth. We have it on the authority of the Committee of Indebtedness appointed by the Punjab Government in 1932 that ".....even if the entire agricultural indebtedness of the Province

*1. Speech of Hon'ble Minister of Education while introducing A.I. Relief Bill in Frontier Assembly.
2. Speeches of R. B. Mehr Chand and R. B. Ishar Dass.

could be wiped out at one moment by decree of the legislation, the agricultural population would again become indebted in few years' time to the same extent."[1] Thus it is clear that merely by eliminating the money- lending class- assuming that it were possible to do so- from the sphere of rural economy, the desired goal of increasing the purchasing power of the agriculturists cannot be achieved. If attempted, it will only leave behind a trail of bitterness which cannot augur well for the future progress of the Province on constitutional lines.

The agriculturist incurs debts not for their own sake but to meet necessities. He wants money to support himself and his family, to buy seeds, to pay Government dues when his crop fails, to spend on social functions in his family and on other diverse purposes It is, therefore, worth-while studying the causes of agricultural indebtedness for it will enable us to see how far and to what extend they are remediable by equitable methods. Thist we shall do in the next chapter.

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1. Report of the Punjab Committee of Indebtedness, 1932 P-15.

CHAPTER II.
CAUSES OF INDEBTEDNESS.

The causes of agricultural indebtedness in the North-West Frontier Province may, for the sake of convenience, be broadly divided into two classes; firstly, those that are peculiar to the Province, and, secondly those that it shares in common with the other agricultural Provinces of India in which industries are still in their infancy or are nonexistent. Taking the latter first, the most important ones are :—

1. *Sub-Division of holdings*—Under the law hitherto followed, the practice in the North-West Frontier Province has been that on the death of the father the property left by him, both movable and immoveable, has been equally divided among his male issues.[1] The result is that each separate plot of land, left by the deceased, is divided into as many equal shares as are his surviving male issues. Thus with every partition of the family property, the size of each holding grows smaller and smaller and becomes more and more uneconomic. This has its effect on the cost of production which is proportionately increased. The result is that the agriculturist is unable to get a fair return "for all his pains of husbandry," and is forced to borrow money to keep the wolf of hunger away from the door. That the average size of

1. Since the enforcement of Shariat Act daughters are also entitled to share in their father's property.

holdings in the Frontier is getting smaller is borne out by the fact that whereas in 1901-3[1] the total area under cultivation was 2,634,586 acres comprising 679,410 holdings, in 1911-12[2] the figures were 2,711,134 and 878,547 respectively. This shows that whereas the area under cultivation during the period in question increased by only 76548 acres, the number of holdings rose by 1,99, 137. According to the quinquennial return, last revised in 1933-34, the tota area under cultivation was 2,787,444 acres comprising 1,265,715 holdings. From the economic point of view, the advantages of a compact holding are too well-known to need any recapitulation in detail. Suffice it to say that land is not needlessly wasted in the demarcation of boundaries, vigilance against the depredations of both man and beast is facilitated and the use of improved implements of cultivation is rendered possible.

It is a happy sign of the times that Consolidation of Holding Societies have sprung up in some parts of the Province and are doing much useful work in this direction. What is needed is that this movement should be speeded up with the help of extensive propaganda and State aid in other ways. The Royal Commission on Indian Agriculture have, in this connection gone to the length of recommending that even,

1. Land Administration Report 1901-3.
2. Ibid 1911-12.
3. Land Revenue Administration Report 1936-37 Statement II.

legal difficulties should not be allowed to overcome economic considerations.

2. *Ignorance of better methods of farming.* During the last half a century or so, and particularly since the last Great War, the methods of agriculture have undergone a complete transformation in all the advanced countries of the world. Motor power has replaced manual labour and almost reduced it to a negligible factor. This has resulted in immense increase in production and decrease in the cost of production. But the Indian peasant steeped as he is in ignorance has not been able to move with the times and has consequently failed to avail himself of the progress made in the science of agriculture. This has adversely affected his capacity to compete with the advanced Western countries in foreign markets. The export trade of the country in agricultural produce has accordingly suffered a set-back. The internal prices are low because the supply is in excess of the demand. The cumulative effect of all this is that the peasant cannot get a fair return for the capital and labour spent by him in raising his crops.

What is needed is to chalk out a bold, but not very ambitious, programme to impart the right sort of education to the agriculturists and not one which fits them only for clerical work and also creates among them aversion to their ancestral occupation. The illiteracy among the rural population of the Province is appalling.

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There are only 56 literates per 1,000 of the population of the Province, and most of them are concentrated in towns, Municipal areas, Cantonments and commercial centres where educational facilities exist.

3. *Absence of marketing facilities.* On account of the absence of adequate marketing facilities, coupled with the ignorance of the ryot, the middle-man takes away a large part of the profits of the agriculturist. This reduces the income of the agriculturist and leaves with him nothing for the rainy day.

4. *Unsuitable revenue collection times.* It is some-times complained that the times fixed by the State for the collection of land revenue are unsuitable. It is stated that they are required to pay their revenue dues before they have disposed of their produce. This forces them either to take a loan from the money-lender or to sell their produce to him or to some-body else, under stress of necessity, at cheap rates. Thus they suffer in both cases. If this complaint is well-founded, steps should be taken to adjust the revenue collection times in such a manner that they should have sufficient time to sell their produce in the market at rates that are fair to them.

5. *Wastage on account of unscientific storage methods.* The poverty of the agriculturist and

1. N.-W. F. P. Census Report, 1931, P. 154.

his ignorance of the modern methods of storage, which eliminate waste altogether, are responsible for his unscientific methods of storage of his produce. The result is that with the lapse of time the commodity thus stored suffers in quality and is also destroyed by pests etc. to some extent. This reduces the income of the agriculturists and thus calls for any practical solution. What is needed is that the State should build storage-houses for their use and charge them low rents for the same.

6. *Incidence of land revenue.* Another cause of indebtedness of the agriculturists, which is advanced with the utmost of vehemence by our political leaders, is the incidence of land revenue. They urge that it was fixed at a time when the prices were high and that, in view of the prevailing low prices, it requires to be reduced considerably. In their opinion it is oppressive and forces the agriculturists to borrow money to pay it. It is, however, a question on which an expert committee alone is competent to express an opinion. But the fact remains that ".. .....land revenue charges are, as matters stand in India to-day, the smallest of the three main charges (that is, land revenue, rent and interest charges) which the cultivating classes as a whole have to defray.....".[1]

7. *Pressure of population on the land.* As stated in the beginning, the North-West Frontier

*1. Mr. Manu Subedar's Minority Report—The Indian Central Banking Enquiry Committee—P. 37.

Province is mainly an agricultural Province. There are no large-scale industries in it. While the population of the province has increased by 30.6%[1] since 1891 and by 7. 7%[2] since 1921, there has been no corresponding increase in the means of production. This has put a much too heavy pressure on the soil. The Royal Commission on Indian Agriculture sum up the position as follows. "To a very great extent, the cultivator in India, labours not for profit nor for a net return, but for subsistence."[3] Agriculture in the North-West Frontier Province has almost reached the limit of its expansion and the last ten years have indeed placed an increasing strain on the agriculturist, which will be intensified by any further world depreciation of agricultural products.[4] Thus it is obvious that all talk of improving the economic condition of the agriculturists is moonshine so long as the pressure on the land is not sufficiently reduced to make agriculture a paying occupation. And this, it will be conceded, cannot be done merely by wiping out their existing debts. The only way in which this is possible is to industrialise the Province. This is not a task which is easy of accomplishment For it patience, fore-sight and scientific investigation are required in an ample measure.

1. N.-W. F. P. Census Report, 1931, P. 33.
2. Ibid P. 27.
3. Royal Commission on Agriculture's Report, P. 433.
4. Census Report, N.-W. F. P., P. 33.

8 *Low power of resistance of the agriculturists*—The poverty of the agriculturists has reached such depths that even if a single crop fails through pests or locust or hailstorm or any other natural cause, they have no capital to fall back upon and are forced to seek accomodation at the hands of the money-lender. To quote an instance, directly as a result of failure of the Rabi harvest and damage done by locust in the Peshawar District in 1927-28, the area of agricultural land sold in the Province exceeded the preceding year's figure by 17,000[1] acres. The conclusion thus is irresistible that steps must be taken without any avoidable loss of time to set the agriculturist's house in order.

9. *Lack of proper knowledge regarding demand for certain crops*— Ignorance of the agriculturist is the root cause of most of his ills. He sows the same crops which his ancestors did a century back. He does not know which crops will fetch better prices and he carries on his work trusting that luck will favour him, but it does not. It is well-known that sugar-cane has ceased to be a paying crop since it is sown widely in the Province. But still it is sown as widely as before. The result is that the price of the produce is found to be insufficient to meet the needs of the agriculturist and he is left with no other alternative but to borrow money to support himself and his depen-

1. Frontier Land Administration Report, 1927 28.

dants. It is for consideration whether it is not desirable for the State to intervene and decide which crops should be sown in a particular locality.

10. *Phenomenal decline in the prices of agricultural produce*—So far we have examined the causes of agricultural indebtedness from the local point of view. Now we shall study how world events, for which India is in no way responsible, have affected the condition of Indian agriculturists. The economic depression, to which reference has been made in an earlier paragraph, brought about a phenomenal decline in the prices of agricultural produce with the result that the purchasing power of the peasantry has been hit very hard. This has had the effect of drawing the agriculturist into the fold of the money-lander to obtain debts to meet his land revenue dues and other liabilities. It is stated that on account of this one cause alone there has been an immense increase in the total indebtedness of the peasantry during the last ten years or so.

11. *New theory of economic self sufficiency*—Dark clouds of war are hovering over the world. The rape of Abyssinia, the merciless civil war in Spain which in its brutality has surpassed even pre-medieval barbarity and savagery, and Japan's invasion of China have a lesson for all the nations of the world. All of them are engaged in feverish activity in making their countries economically self-sufficient and to depend as little on others as possible. This has resulted in shrinkage of inter-

national trade and is responsible for low prices of our agricultural produce.

12. *Depreciation in currency*—Most countries of the world have resorted to the remedy of depreciating their currency in order to encourage exports and discourage imports. This is because they want money to execute their armament programmes and it is obvious that in order to have a favourable balance of trade a country must export more than it imports in order that the balance may be paid to it in the form of international currency *i. e.*, Gold. It is the complaint of the Indian mercantile community that there has been no corresponding depreciation of the rupee with the result that the Indian exports, including agricultural produce, have suffered adversely.

13. *Exchange ratio*—Indian professors of economics have been more or less unanimous in their condemnation of the 18d ratio. It is their considered opinion that it hampers exports and encourages imports. On behalf of the Government these contentions have been emphatically contradicted and asserted that this is the real value of the rupee. This again is a highly controversial subject on which only experts can express an opinion.

So much for the causes of agricultural indebtedness which the North-West Frontier Province shares in common with the other Provinces of India. We shall now refer to the causes that are peculiar to the North-West Frontier Province:—

14. *Improvident habits of the Pathan agriculturist*—The Pathan agriculturist, we are told, is improvident in his habits. If he has any money, he will squander it rather than use it to his profit. This is a defect which education alone can cure.

15 *Wasteful expenditure on social functions*—It has long been pointed out that on social functions in his family the Pathan agriculturist spends out of all proportion to his means. He must borrow money to keep up appearances in his society. The result is that the debt once contracted is never redeemed for his income is too small to allow that.

16. *Litigation*—Litigation is a favourite pastime of the peasants during years of prosperity. They little realise that in the long run, it proves ruinous to both the parties. Some-times they have to borrow money to carry on this wasteful pursuit for their normal income is not sufficient for the purpose.

We have studied above some of the major causes of agricultural indebtedness in the North-West Frontier Province. On a perusal of the fore-going pages it will be admitted by every impartial and fair-minded critic that Nos. 4, 6, 10, 11, 12 and 13 are not the making of either the peasant or the money-lender, and that whatever indebtedness is attributable to them, has been beyond the control of the agriculturist. The rest are either the result of his ignorance or are due

to economic factors over which he has no power. These causes also emphasise the fact that so long as the state of agriculture in the Province remains what it is, there is a very real need for the agriculturist to borrow money and that any attempt to tamper with the existing credit system without providing any suitable substitute for the same will end in failure. Besides this, they expose the fallacy that it is the money-lender, particularly the non-agriculturist money-lender, who is responsible for the indebtedness of the agriculturists, which has assumed well-nigh serious dimensions.

To a great extent, the agriculturist is the victim of unfavourable circumstances. The land does not yield him enough to support himself and his family. The difficulty is aggravated when his crop fails or some other misfortune overtakes his family. He manages to pull on by borrowing money from the money-lender who has, through the ages, filled an important role in our rural economy.

CHAPTER III.

THE MONEY-LENDER.

Since times immemorial, the money-lender has played an important part in our system of rural economy. It is he who finances the agriculturist during lean years. The remarkable patience that he shows in realising the debts due to him, has won him the praise of friends and foes alike. It is true that there are some black sheep in his profession--as there are in every other profession—who charge exorbitant rates of interest, keep fraudulent accounts and otherwise exploit the ignorance and weak position of their debtors in diverse ways. But that is no justification for castigating the whole class and painting it in the blackest colours possible. It is a pity that in the exuberance of their diatribes against the "rapacious and avaracious" money-landers, some of our public-men lose sight of the fact that they are an important part and parcel of our present-day-rural economy.

The agencies from which the agriculturist can borrow money are :—

1. The non-agriculturist money-lender.
2. The agriculturist money-lender.
3. Cooperative Credit Societies.
4. Government.

Coming to the last one first, we find that our Provincial Government makes advances to the agriculturists under the Agriculturists' Loans Act and the Land Improvement Loans Act. These advances are made to deserving agriculturists on the recommendation of the revenue authorities, and are recovered by instalments The amount advanced by the Frontier Government to the agriculturists since 1922-23 is given below for every four years :—

Years.	*Amount.*
1922-23 to 25-26	5,27,795
1926-27 to 29 30	21,81,721
1930-31 to 33-34	3,43,116
1934-35	87,181 (1)
1935-36	73,640

The figure for the years 1926-27 to 29-30 seems extra-ordinary but it is explained by the fact that in the year 1929-30, extensive damage was done by floods in the Peshawar District and the Government advanced as much as Rs. 9,96,984 during that year alone.

From the above it appears that at the average the amount of money given by the Government as loans under the Agriculturists Loans Act and the Land Improvements Loans Act is just a little above rupees two lakhs annually. To

1. Frontier Land Administration Reports 1922-23 to 1935-36.

one who has any acquaintance with the needs of the agriculturists, this is like a drop in the ocean. The fact of the matter is that the Government cannot bear the entire burden of financing the agriculturists through thick and thin. This fact has been recognised by the Royal Commission on Indian Agriculture who, dealing with the subject, make the following weighty observations, "Government can never find the whole sum required to finance normal agricultural operations, and that, therefore, their attempt to find a part of it merely leads to anamolies. (the reference is to the Agriculturists Loans Act) ..... The Act can never be the means for meeting all the normal requirements of agriculture; but it is of great value in certain contingencies ....."[1] The Commission are averse to granting loans under the Agriculturists Loans Act in normal times.[2]

The Royal Commission expressed the hope that in course of time the Co-operative Credit Societies would be able to meet all the normal requirements of the agriculturists and displace the money-lender, agriculturist as well as non-agriculturist. That this hope would take pretty long to materialise will become apparent from the following account of progress of the cooperative movement in the North-West Frontier Province.

1. Royal Commission's report p-430.
2. Only short-term advances are made under this Act.

"The first Credit Society was registered in the Province in December, 1925. The Hazara Central Bank, still the only Central Bank in the Province, was registered in March 1925 . ..... At the end of 1928 there were 60 Societies and 2,236 members in the Province, mostly in the Hazara District, where the movement was still centralised. But the next year witnessed an alround expansion ..... . In 1929 the movement was extended to the Peshawar and D. I. Khan Districts, 41 new Societies sprang up and the membership was increased to 3,938. In 1930 progress was continued in spite of the prevailing political unrest and the decade closed with 160 Societies, 5,825 members and a working capital of nearly 9 lakhs."[1] This statement occurs in the Census Report of the North-West Frontier Province for the years 1921-31. Since then two more Central Banks have been opened, one in Mardan[2] and the other in D I. Khan[3] The following statement gives in a tabulated form the progress of the movement since 1929-30:—

Year.	*Societies.*	*Member-ship.*	*Working Capital.*	
1929-30	166	5,825	9 lakhs	Nearly
1930-31	257	7,894	13 lakhs	
1931-32	305	7,693	14 lakhs	
1932-33	382	12,072	15,86,545	
1933-34	451	15,695	18,79,724	

1. Frontier Census Report, 1931, P-33.
2. Report of Cooperative Societies N-W.F.P. 1933-43 P-2.
3. Ibid.

1934-35	529	19,659	21,05,622
1935-36	622	22,854	22,81,406
1936-37	692	25,078	23,98,671

A perusal of the above statement shows that the number of Societies has increased from 166 to 692, membership has risen from 5,825 to 25,078 and Working Capital from about 9 lakhs to about 24 lakhs. But here one fact is significant and that is, that of the total number of Cooperative Societies, registered in the Province, as many as 607 are Agricultural Credit Societies. This illustrates that what the agriculturist needs most is money to carry on his agricultural operations and to support himself and his family. It is stated that many agriculturists have joined Agricultural Credit Societies with no other purpose than to secure loans on easy terms to pay off their former debts, and that, despite all the vigilance exercised by the authorities, not all the money advanced as loans by the Cooperative Credit Societies is spent on productive purposes. To the extent that this is true, it can be said without hesitation that the movement has failed in inculcating the habit of thrift among the members of the Credit Societies. The total Working Capital of all the Cooperative Societies in the Province is nearly 24 lakhs. The total rural indebtedness, as stated is some earlier paragraph, is estimated to be in the neighbourhood of rupees 9 crores. This shows how long it must take before the Cooperative Movement grows strong enough to shoulder all the requirements of the agriculturists.

There is, however, a disquieting feature about the future progress of the movement. The tale of recoveries of loans advanced by the Cooperative Societies provides a dismal reading as the following figures will show.

Year.	*Recoveries in percentage.*	
1930-31	47 %	
1931-32	27 ,,	
1932-33	19 ,,	
1933-34	19 ,,	
1934-35	19 ,,	of the principal alone.
1935-36	19 ,,	
1936-37	19 ,,	

The fact that the percentage of recoveries is so low, proves one of the two things: either the loans are advanced to persons without making proper enquiries or their economic condition is such that they cannot repay the same. The result is that the amount outstanding on account of principal and interest is rising and this does not portend well for the future of the Movement.

It is, therefore, obvious that if the Cooperative Movement is to remain solvent and its future progress is to be assured, effective steps are needed to improve the depressingly low percentage of

1. Reports of Cooperative Societies, N-W.F.P, 1930-31 to 1936-37.

recoveries of advances made by them. Otherwise we should be prepared for a definite set-back and this is a prospect which no real well-wisher of the Province can view with satisfaction. It will throw into some indefinite future the hope expressed by the Royal Commission on Indian agriculture that in course of time the Cooperative Movement would grow strong enough entirely to displace the money-lender from the sphere of rural economy.

Another factor that requires special mention in this connection is that the percentage of recoveries has stood at 19 % of the Principal since the year 1933-34 despite the fact that in the matter of realisation of loans, the Cooperative Societies are exempt from all the stringent restrictions to which a some-what detailed reference will be made in the next Chapter under which the non-agriculturist money-lender labours.

The next question that arises for consideration is, why is it that the agriculturist seeks accomodation at the hands of the money-lender rather than from the Agricultural Credit Societies? This may be due to any one or more of the following causes:–

(a) There is dearth of money and the Agricultural Cooperative Credit Societies are unable to meet all the requirements of the agriculturists.

(b) The money-lender is always at hand and a loan can be had from him in no time, while it must take some time before his application for a loan is sanctioned by

the officials of the Society. Thus, in cases of emergency, it is from the money-lender alone and from no other agency that a needy agriculturist can get a loan

(c) The ignorance of the agriculturist of the advantages of taking loans from the Cooperative Credit Societies rather than from the money-lenders, who, it is stated, keep fraudulent account books and charge exorbitant rates of interest.

(d) If, for any cause, the agriculturist cannot get a loan from a Cooperative Credit Society and he feels, rightly or wrongly, that he cannot do without a loan, the only course open to him is to go to the money-lender for financial assistance in the form of a loan.

(e) Dishonest agriculturists and it cannot be said that all borrowers, whether agriculturists or non-agriculturists, are honest knowing the limitations under which the money-lender labours in the matter of recovery of loans due to him, prefer to borrow money from the money-lender rather than from a Credit Society.

We have seen above that the Cooperative Movement in the Frontier is not yet strong enough to meet all the requirements of the agriculturist,

which are mostly met by the money-lender. This fact is recognised by the Royal Commission on Indian Agriculture who thus emphasise the importance of the money-lender in our present day rural economy :—

"In the present state of India, he (the money-lender) is a necessity and, that being so, his calling will not be abolished by making it illegal. He alone is in a position to provide the bulk of the capital required for current agricultural needs and, on a recurrence of severe distress, he will continue, as in the past, to support the people by timely loans. If he is ever driven from the land, it will not be by legislation but by the growth of the cooperative movement and, more especially, by the habits of thrift inculcated by that movement."[1]

The money-lenders, who, as we have seen above, mainly finance the agriculturists, are either agriculturists or non-agriculturists. The former is, as will be explained in the next chapter, of recent origin and is largely the creation of the Alienation of Land Act. He occupies a most favourable position *vis-a-vis* the non-agriculturist money-lender in the field of rural economy and is subject to no restrictions which it has been thought fit to impose on the latter

To sum up, things being as they are, in a vast majority of cases, it is to the money-lender that

1 Report, Royal Commisson on Agriculture, P. 433

the agriculturist goes for a loan at the time of need. If through legislation or executive action or by any other method, which the ingenuity of man can devise, such restrictions are imposed upon him that he is forced to give up his profession, the existing structure of rural economy will receive a severe shock the consequences of which no one can foretell. In the words of Mr. Kedar Nath Agarwal (Marwari Chamber of Commerce, Bombay), "if you take away from the hands of the peasants the existing means of obtaining credit and provide no adequate substitute at all, then you are ignoring some of their most important needs. The peasant requiries financial accomodation for purchasing seed, bullocks and agricultural implements as well as for paying rent and revenue. Besides, he has often to borrow to keep the wolf from the door. It may be said in reply "we want to wean the peasants from their habit of frequent borrowing and we are not worried therefore, if he does not get as cheap credit as before." All that I can say to this kind of reasoning is that if adequate financial facilities will be absent for such ordinary needs of life, as I have just mentioned, the result will be to create widespread discontent and raise forces of disorder."[1] We shall study in the next chapter what legislative measures have been passed by the Frontier Legislature or are otherwise in force in it by virtue of their being of all-India application, to relieve the peasants of their crushing burden of indebtedness.

1. Federation of Indian Chamber of Commerce and Industry Report, 1938 session, P. 123.

CHAPTER IV.

TREND OF LEGISLATION.

The trend of legislation, in this connection, has been, broadly speaking, in the following four directions :—

1. Firstly, to exempt the implements of husbandry etc., and some other property of an agriculturist judgment debtor from attachment or sale in execution of a decree passed against him.

2. Secondly, to put restrictions on an agriculturist not to permanently alienate his land to a non-agriculturist.

3. Thirdly, to regulate the rate of interest and empower the courts to disallow exorbitant rates of interest.

4. Fourthly, to provide for the keeping of proper accounts by the money-lenders.

I. The first provision of law that calls for attention in this connection is *Section 60 (1) (b) of the Civil Procedure Code* under which the "tools of artizans, and where the judgment debtor is an agriculturist, his implements of husbandry and such cattle and seed grains as may, in the opinion of the court, be necessary to enable him to earn his livelihood as such, and such portion of

agricultural produce as may have been declared to be free from liability under the provisions of the next following Section" are exempt from attachment and scale in execution of a decree passed against him.

II. *Section 60 (1) (c) of the Code of Civil Procedure*—provides that "houses and other buildings (with the materials and the sites thereof and the land immediately appurtenant thereto and neeessary for their enjoyment) belonging to an agriculturist and occupied by him" shall not be liable to attachment and sale in execution of a decree passed against him.

These two sub-sections of Section 60 enumerate the property of an agriculturist debtor that is exempt from attachment and sale in execution of a decree passed against him. But this list is not exhaustive for he also enjoys other facilities and concessions that the law has granted to judgment-debtors generally. Thus the property specially mentioned in these sub-sections is over and above that that has been exempted from attachment and sale in the case of judgment-debtors generally.

Courts have held that under these two sub-sections charaks, kadhais, and planks of timber used by an agriculturist for pressing sugar-cane grown on his fields are implements of husbandry [1] and are exempt from attachment. Even the fodder

1. See 1928 Lahore. 943.

required for the cattle is exempt from attachment.

III. *The Punjab Alienation of land Act*—No. XIII of 1900, as modified in its application to the North-West Frontier Province by Regulation 1 of 1904, became operative in the districts of Bannu, Hazara and Dera Ismail Khan, with effect from [2] the 23rd of June, 1904. The objects of this Act are to restrict as much as possible the permanent alienations of their lands by non-agriculturists and to do this without at the same time unduly limiting the credit on which the Zamindars depend for the means of cultivation. [3] This Act was enforced in three out of the six (then five) districts of the Province because it was felt that agricultural land was rapidly passing into the hands of the non-agriculturists and it was considered necessary to take steps to call a halt to this process. The effect of this was that the money-lender was derived of the security of land on which he was formerly lending money to the agriculturists. For the first time it created a distinction between the agriculturists and the non-agriculturists and put restrictions on the alienation of land by the former to the latter. To this extent it reduced the credit of the agriculturist borrower *vis-a-vis* the non-agriculturist money-lender. It subdivided the

1. See 2 Punjab Reports No. 93.
2. Vide Notification No. 279 N. Dated 23 June 1904
3. R. C's Circular letter No., 69/1384, dated 13 July to all D. Cs.

agriculturists into various tribes and groups and permitted alienations of land among them. It has brought into existence a new class of money-lenders, called the agriculturist money-lenders. Whereas the Act put restrictions on the sale of land to a non-agriculturist money-lender, it did not prohibit acquisition of agricultural land by an agriculturist money-lender. Experience has shown that the latter is as rapacious in his dealings as the worst among non-agriculturist money-lenders with an additional advantage, referred to above. Says Mr. Darling in his "Rusticus Loquitur":—

"If the mortgage bank is needed as a weapon against the Sahukar, in time it will be doubly needed against the agricultural money-lender. Without its protection there is a danger that, despite the Land Alienation Act, the expropriation of the peasant may begin again on a large scale. There are already possibilities in the Western Punjab, where the large land-lord is taking advantage of the Act to add to his acres at the expense of the peasantry." What is true of the Punjab applies *mutatis mutandis* to the North-West Frontier Province for the agricultural conditions in these two Provinces are more identical than divergent. The bigger fish in the Frontier, say the opponents of this Act, is swallowing the smaller fish. This is, however, a fact which needs to be inquired into by an expert committee. But if there is any substance in this complaint, it is a problem by itself, for a vast mass of landless agricultural population will, n course of time, present complications of an unprecedented character.

Sub-section 2 of Section 3 of the Act empowers the Deputy Commissioner to permit alienation of land to a non-agriculturist at his discretion. But that this power is very sparingly exercised will become clear from the following statement of the number of applications made by agriculturists for grant of permission to alienate their lands or portions thereof to non-agriculturists and the number of applications sanctioned by the Deputy Commissioners :—

Years.	*No. of applications made*	*No. accepted.*
1906-7	18	4
1907-8	100	18
19 8-9		18
1909-10	83	4
1910-11	96	18
1911-12		
1912-13	79	19
1913-14		14
1914 15	Figures not	19
1915-16	available.	15
1916-17		27
1917-18	129	62
1919-20	105	16
1922-23	90	17
1923-24	86	27
1924-25	102	28
1925-26	125	30
1926-27	126	50
1927-28	97	30
1928-29	143	28
1929-30	110	45

1930-31	112	26
1931-32	110	40
1932-33	99	26
1934-35	86	20
1935-36	123	10

The above statement shows that it is only a very small number of applications that are accepted by the Deputy Commissioners. Now why does an agriculturist himself apply to the Deputy Commissioner to give him permission to alienate his land, whether in whole or in part, to a non-agriculturist money-lender, especially when there is also the agriculturist money-lender to accomodate him. This may be due to any of the following causes:—

(a) There is dearth of money and the needy agriculturist cannot get money from any other source, or

(b) The non-agriculturist offers better terms than any other agriculturist and he thinks it to his advantage to alienate his land to him.

From the point of the peasant proprietor, whose application for the aforesaid purpose has been rejected, the result is the same in both the cases. He is forced to sell his land- supposing he must sell the land in any case- to one of his own class for a price that does not give him the full value of his land.

IV. *The Usurious Loans (N.-W. F. P.) Amendment Act. 1935*—Section 4 of this Act describes what is and what is not to be deemed an excessive rate of interest in the case of secured as well as unsecured loans. It provides that "interest shall not be deemed to be excessive if, in the case of the loans advanced on the security of immovable property or pledge of movable property, it does not exceed 8% compound interest with annual rests or 10% simple interest and in the case of other loans it does not exceed 12% compound interest with annual rests or 15% simple interest". It further provides that "interest shall be deemed excessive, if, in the case of loans advanced on the security of immovable property or pledge of movable property, it exceeds 12% compound interest with annual rests or 15% simple interest and in tbe case of other loans it exceeds 18% compound interest with annual rests or 25% simple interest". This Act empowers the courts to reduce the rate of interest if they find it to be excessive-

V *The N.-W. F. P. Regulation of Accounts Act. 1935*,—Inter alia provides that a creditor hall regularly record and maintain an account sfor each debtor separately of all transactions relating to any loan advanced to that debtor in such manner as the Local Government may prescribes[1] Failure on his part to do so disentitles him to costt and to such portion of the interest as the cour may decide in any suit that he may institute

1. Regulation of Accounts Act—s. 3. (1) (a)

for recovery of the loan due to him Besides this, under Section 3 (b) of the Act a creditor "shall furnish each debtor every six months with a legible statement of account signed by him or his agent of any balance or amount that may be outstanding against such debtor on the 30th day of June or 15 Har and the 31st day of December or 15 Poh in each year." Non compliance on his part of this duty imposed on him disentitles him to the amount of interest due upon the loan for every such period in any suit that he may bring for the recovery of the loan.[2] Furthermore, under Section 7 of the Act a creditor who enters in his books of account a sum larger than the amount actually lent is punishable for the first offence with fine which may extend to 200 Rupees and for the second offence or subsequent offence with regard to the same or any other agriculturist, with fine which may extend to one thousand rupees or imprisonment of either description not exceeding six months or both. Thus this Act penalises keeping of false accounts and provides for keeping of proper accounts.

Besides the above, an agriculturist judgment-debtor cannot be arrested during certain parts of the year in execution of a decree passed against him, for it is considered that his presence on his

1. Ibid. 4. (b)
2. Ibid 4. (c)

fields is necessary at that time and for those periods.

We have seen above that legislation has exempted the implements of husbandry etc. and other defined property of an agriculturist from attachment or sale in execution of a decree passed against him, provided for keeping of proper accounts and regulated the maximum rates of interest, and, in the case of non-agriculturists (particularly non-agriculturist money-lenders) ruled that they shall not, except with the previous permission of the Deputy Commissioner, acquire land from any agriculturist.

All these steps, with the exception of the Land Alienation Act on the practical working of which opinions differ, have been steps in the right direction. But why is it that despite all this the agriculturist is still in debts and badly needs help? The answer to this question can be given in one sentence and that is that so long as the purchasing power of the agriculturists is not increased there can be no appreciable improvement in their position. And how this is possible we shall study in the next chapter.

CHAPTER V.

CONCLUSIONS.

Agriculture, as we have seen in the preceding chapters, is the chief source of wealth of the North-West Frontier Province and more than 75% of its total population is directly or indirectly dependent on it. Owing to the growing pressure on the land the income of the agriculturists has been steadily going down and down. The following methods suggest themselves for increasing their income :—

1. By increasing the area under cultivation.

2. By better methods of farming.

3 By introducing suitable cottage industries in the Province to supplement the income of the agriculturists.

4. By taking such other steps as starting of industries etc., which may result in lightening the pressure of population on the land.

We shall now deal with each one of them seriatim :—

1. *By increasing the area under cultivation*— The population of the North-West Frontier Province has increased by 30·6% since 1890 and by .77% since 1921 according to the last Census

Report. As there is no other industry in the Province to provide employment to any considerable number of the total population, this increase of population has mostly fallen on the land and placed an increasing strain on agriculture. It has not been attended by any increase in the area under cultivation as the following figures will show :—

Year.	*gross cultivated area.*
1901	2,738,480 acres
1911	2,714,110
1921	1,973,691
1930-31	2,355,565 (1)

An examination of these figures shows that, as long ago as 1901, when the North-West Frontier Province was separated from the Punjab, cultivation had already been extended almost to its limit, and that no further material extension is discernible among the fluctuations since that year.

One way of increasing the area under cultivation is to construct canals to bring culturable but uncultivated land under the plough. 58% of the total area of the North-West Frontier Province is culturable.[2] Of it ony 34%[3] is under cultivation. Thus a considerable area has not yet been brought under cultivation. This can be done through sinking wells and digging canals to carry water to areas where the same is scarce.

1. N-W. F. P. Census Report, 1931, P. 24.
2. Census Report, 1931, P. 35 Subsidiary Table I
3. Ibid P. 35

Irrigation in the North-West Frontier Provin is mostly carried on from State canals, privat canals and wells. The following table gives figure in regard to the area irrigated from each of thes sources :—

Year	*from State Canals*	*Private* (acres)	*wells*
1911	225,890	412,792	94,270
1921	333,809	375,998	69,161
1925-26	368,058	387,375	85,381
1930-31	392,055	393,833	81 318 (1

These figures show that the area irrigated by State Canals has increased by 17% since 1921 and by 74% since 1911, and that the area irrigated by private canals and wells has, except for seasona variations, remained almost stationary since 1901[2] Out of the four State Canals in the Province, two the Lower Swat Canal and the Kabul River Canals have reached the limit of the cultivable area com manded by them. There is, however, still roon for extension of the area irrigated by the remainin two, the Upper Swat and Paharpur Canals. "N new irrigation schemes of any importance," say the Census Report, "have been undertaken durin the last decade, though some have been unde consideration affecting the Dera Ismail Kha District."[3] We have seen above that about 24%

1. Ibid P. 23
2. Ibid P. 23
3. Ibid P. 23

of the total area which is culturable has not yet been brought under the plough. This means that there is still room for further development of irrigation facilities. "But the physical difficulties," to quote from the same report, "are immense, and with prices of agricultural produce at their present level, it is unlikely that any scheme can be devised in the near future capable of benefitting a substantial area of culturable land, and of bringing in return sufficient to cover the interest on the capital outlay. For these reasons, we cannot look with confidence to agriculture to provide any economic justification for a further increase of population in the North-West Frontier Province." But whether there is any justification or not, we must be prepared for a further increase of population and this demands that unless the standard of living is to go down still further ways and means must be found to bring culturable but uncultivated area under cultivation.

II. The second method of increasing the income of the agriculturists is introduction of better methods of farming. But the conditions that it postulates are conspicuous by their absence in the North-West Frontier Province Better methods of farming require, among other things, large holdings, literate and wealthy peasants who can invest money in purchasing improved implements of cultivation and are ready to try experiments that have proved successful in other countries. In common with the peasants of the rest of India the peasants of the Frontier are conservatives by habit and tenaciously cling to

old and worn-out methods. The first step in this direction is to give them the right sort of education so that they may not look on all new changes with suspicion. The Tarnab Experimental Farm has paved the way in inducing the agriculturists to try new methods. If fruit exhibitions and other exhibitions connected with agriculture are frequently held, it will go a long way to shed off their apathy to new methods. But this must take time and we cannot expect any immediate gain. This is, however, no reason to let matters stand where they are. If funds permit, experimental farms should be started at suitable centers to acquaint the agriculturists with the economic advantages of improved methods of cultivation.

III. *Cottage industries*—It has been estimated that, as in many other parts of India, the agriculturist in the North-West Frontier Province has no work to do for about 200 days in the year. If he can be taught some cottage industry, he can supplement his income by working at it during his leisure hours. Say the Committee of Indebtedness appointed by the Punjab Government in 1932 to examine the recommendations relating to indebtedness made by the Royal Commission on Indian Agriculture:—"On account of conditions inherent in the nature of holdings in this Province and the natural conditions on which agriculture depends, our agricultural population cannot, in our opinion, be actually prosperous or relieved of its indebtedness unless some subsidiary occupations are found for them.....Mr. Darling in his admirable book, "Punjab peasant in prosperity

and debt" comes to the conclusion:—"Broadly it may be said that, without this second string to his bow (*i. e.* a subsidiary occupation), the Punjab peasant proprietor must always be in debt. Even when considering the indebtedness in the various tehsils of the same district *e. g.* Hoshiarpur, he found that in Hoshiarpur and Garhshankar tehsils, where the population has got subsidiary occupation, the indebtedness is comparatively much smaller than the indebtedness in other tehsils." They proceed on to say, "our second conclusion is that the peasant proprietor cannot keep out of debt unless he is exceptionally industrious and frugal, or has a second string to his bow. This fact has again and again been stressed in the course of our enquiry, and so far as the Punjab is concerned, it is abundantly proved by what we have encountered in different parts of the Province. We have seen that where industry is unflagging and habits frugal, as amongst the Mahtous of Jullundhar and the Ahirs of Gurgaon, or where, as in Rawalpindi, men are accustomed to emigrate or enlist, debt is comparatively light, but where these factors are absent, the peasant is largely dependent on the money-lender." This emphasises the importance of having suitable cottage industries in the Province as this will be the best way to save them from running into debts. Now what cottage industries can suitably be started in the Province is a question that requires to be thoroughly gone into by an expert committee which should tour the whole of the Province and collect the necessary data to submit its recommendations to the Government.

IV. *Big industries in the Province* – At present the Province has no large-scale industry in it. Its forest wealth, it is stated, is not being properly exploited. It is commonly believed that there is scope for match factories in the Hazara district and for sugar factories in the Peshawar and Mardan districts. Large-scale industries cannot come into existance over-night. For them great preparations are needed. The first step in this direction is an exhaustive economic and industrial survey of the agricultural, forest and mineral resources of the Province. An industrial Board should be set up which should advise intending investors as to which industy can be profitably started in a particular locality. The economic problem of the Frontier would be solved if and when large-scale industries, providing employment to thousands of workers, are started in the Province. For then and not till then the pressure of population on the land will be reduced and the state of agriculture, too, will improve. It is the duty of the Government and of all those who have the real interests of the Province at heart to take every step possible to hasten the advent of that day. Otherwise the future of the Province, in so far as the economic condition of its inhabitants is concerned, is any thing but bright.

GOVERNMENT
OF THE
NORTH-WEST FRONTIER PROVINCE

32

THE USURIOUS LOANS (NORTH-WEST FRONTIER PROVINCE AMENDMENT) ACT, 1935.

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THE USURIOUS LOANS (NORTH-WEST FRONTIER PROVINCE AMENDMENT) ACT, 1935.

CONTENTS.

Preamble.
SECTION.
1. Short title, extent and commencement.
2. Amendment of Section 1 (a) of Act X of 1918.
3. Amendment of Section 3 (1) (b) of principal Act.
4. Amendment of Section 3 (2) (a) of principal Act.

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North-West Frontier Province Act IV of 1935

THE USURIOUS LOANS (NORTH-WEST FRONTIER PROVINCE AMENDMENT) ACT, 1935.

(Received the assent of the Governor on the 30th March 1935 and of the Governor-General on the 9th May 1935.)

An Act to amend the Usurious Loans Act, 1918, in its application to the North-West Frontier Province.

WHEREAS it is expedient to amend the Usurious Loans Act, 1918, in its application to the North-West Frontier Province; I of

Preamble.

AND WHEREAS the previous sanction of the Governor-General has been obtained under Section 80-A, sub-section (3), of the Government of India Act, to the passing of this Act;

It is hereby enacted as follows:—

1. (1) This Act may be called the Usurious Loans (North-West Frontier Province Amendment) Act, 1935.

Short title, extent and commencement.

(2) It extends to the whole of the North-West Frontier Province.

(3) It shall come into force on such date as the Local Government may, by notification in the official Gazette, direct.

2. In clause (a) of sub-section (1) of Section 3 of the Usurious Loans Act, 1918, hereinafter referred to as " the principal Act ", for the word " and " the word " or " shall be substituted.

Amendment of Section (1) (a) of Act X of 1918.

Amendment of Section 3 (1) (b) of principal Act.

3. In clause (b) of sub-section (1) of Section 3 of the principal Act, for the words, " may exercise all or any of the following powers " the words " shall exercise one or more of the following powers " shall be substituted.

Amendment of Section 3 (2) (a) of principal Act.

4. The following provisos shall be added to clause (a), sub-section (2) of Section 3 of the principal Act, namely :—

" Provided that interest shall not be deemed excessive if, in the case of the loans advanced on the security of immovable property or pledge of movable property, it does not exceed 8 per cent. *compound interest* with annual rests or 10 per cent. simple interest and in the case of other loans it does not exceed 12 per cent. compound interest with annual rests or 15 per cent. simple interest :

Provided further that interest shall be deemed excessive, if, in the case of loans advanced on the security of immovable property or pledge of movable property, it exceeds 12 per cent. compound interest with annual rests or 15 per cent. simple interest and in the case of other loans it exceeds 18 per cent. compound interest with annual rests or 25 per cent. simple interest."

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33

North-West Frontier Province Act III of 1935

THE NORTH-WEST FRONTIER PROVINCE REDEMPTION OF MORTGAGES ACT, 1935.

(Received the assent of the Governor on the 30th March 1935 and of the Governor-General on the 9th May 1935.)

An Act to provide a summary procedure for the redemption of certain mortgages of land in the North-West Frontier Province.

Preamble.

WHEREAS it is expedient to provide a summary procedure for the redemption of certain mortgages of land in the North-West Frontier Province and whereas the previous sanction of the Governor-General has been obtained under Section 80-A, sub-section (3) of the Government of India Act to the passing of this Act.

It is hereby enacted as follows:—

Short title, extent, commencement and scope of the Act to certain mortgages.

1. (1) This Act may be called the North-West Frontier Province Redemption of Mortgages Act, 1935.

(2) It extends to the whole of the North-West Frontier Province.

(3) It shall come into force on such date as the Local Government may, by notification in the official Gazette, direct.

(4) It shall apply only to mortgages of land:—

(a) in which, whatever the mortgage money, the land mortgaged, after excluding the area of any share in the common land of the village or of a sub-division of the village appertaining thereto and mortgaged therewith does not exceed 30 acres in area; or

(b) in which, whatever the area, the principal money secured under the mortgage does not exceed 1,000 rupees:

XIII of 1900. Provided that it shall not apply to any mortgage made under Section 6 of the Punjab Alienation of Land Act, 1900.

Definition.

2. In this Act:—

(1) The expression "Land" shall have the same meaning as in the Punjab Alienation of Land Act, 1900.

(2) The expression "Collector" shall mean the Collector of the district in which the mortgaged property or any part thereof is situated, and shall include an Assistant Collector of the 1st grade.

(3) "Prescribed" shall mean prescribed by rules made under this Act.

Act XVI of 1887. Application of certain sections of the Punjab Tenancy Act.

3. Subject to the provisions of this Act and the rules thereunder, the provisions of Sections 79, 85, 86, 87, 89, 90, 91, 92 and 101 of the Punjab Tenancy Act, 1887, shall, so far as may be, apply to all proceedings of a Collector under this Act.

Petition for redemption.

4. The mortgagor or any other person entitled to institute a suit for redemption, may, at any time after the principal money becomes payable concerning which a suit is not pending and before a suit for redemption is barred, present a petition to the Collector applying for an order directing that his mortgage be redeemed, and where the mortgage is with possession that he be put in possession of the mortgaged property.

Verification. The petition shall be duly verified in the manner prescribed by law for the verification of plaints, and shall state the sum which the petitioner declares to the best of his belief to be due under the mortgage.

Deposit. The petitioner shall at the same time deposit such sum with the Collector.

Particulars to be contained in petition. The petitioner shall state in his petition such particulars and file therewith such documents as may be prescribed.

Mortgagee to be summoned.

5. When the petition has been duly presented and the deposit has been made, the Collector shall issue to the mortgagee a summons to appear on a date to be therein specified. Every summons shall be accompanied by a copy of the petition, with the date of deposit endorsed thereon.

6. Where the mortgagee appears and the petitioner does not appear when the petition is called on for hearing, the Collector shall, unless he adjourns the proceedings, make an order that the petition be dismissed, unless the mortgagee admits the claim, in which case the Collector shall make an order:—

Procedure when petitioner is absent and mortgagee present.

(a) that the mortgage be redeemed;

(b) that where the mortgage is with possession the mortgagor be put in possession of the mortgage property as against the mortgagee;

(c) that the mortgagee deposit with the Collector the mortgage deed, if any, if then in his possession or power, and that it be delivered to the petitioner;

(d) that subject to the mortgage-deed, if any, being so deposited by the mortgagee the sum in the deposit be paid to him:

Provided that no such order shall be made inconsistent with any conditions of the mortgage whereby a season or period of the year is fixed for redemption or for surrendering possession.

7. When the petitioner appears, but the mortgagee does not appear, when the petition is called on for hearing, the Collector shall, unless he adjourns the proceedings, inquire in a summary manner (a) whether the petitioner is entitled to redeem the mortgaged property and (b) whether the sum deposited by the petitioner is the sum rightly due under the mortgage.

Procedure when petitioner is present and mortgagee absent.

If the Collector is not satisfied that the petitioner is entitled to redeem, he shall dismiss the petition.

If the Collector is satisfied that the petitioner is entitled to redeem, and that a sum deposited is the sum rightly due under the mortgage, he shall make an order as laid down in Section 6 (a), (b), (c) and (d) of this Act.

If the Collector is satisfied that the petitioner is entitled to redeem, but is of opinion that a sum larger than that in deposit is due under the mortgage, he shall fix a period not exceeding thirty days within which the petitioner shall deposit the difference, together with any further sum which may be due on account of interest up to the date of deposit. If the petitioner make such deposit within such period or such further period not exceeding thirty days, as the Collector may fix, the Collector shall make an order in manner as aforesaid.

If the petitioner fails to make such deposit within the period fixed, the Collector shall dismiss the petition.

Procedure when both parties are in attendance: order for redemption.

8. Where both parties appear when the petition is called on for hearing, the Collector shall inquire from the mortgagee whether he admits that the petitioner is entitled to redeem, whether he is willing to accept the sum in deposit in full discharge of the mortgage debt, and where the mortgage is with possession whether he is willing to surrender possession of the mortgaged property.

If the mortgagee replies in the affirmative, the Collector shall make an order as laid down in Section 6 (a), (b), (c) and (d) of this Act.

If the mortgagee admits the petitioner's title to redeem, but demands payment of a sum larger than that in deposit, the Collector shall inquire from the petitioner whether he is willing to pay such larger sum, and if he replies in the affirmative, the Collector shall fix a period not exceeding thirty days within which the petitioner shall deposit the difference, together with any further sum which may be due on account of interest up to the date of deposit. If the petitioner makes such deposit within such period or such further period not exceeding thirty days as the Collector may fix, the Collector shall make an order as laid down in Section 6 (a), (b), (c) and (d) above.

If the petitioner fails to make such deposit within the period fixed, the Collector shall dismiss the petition.

Procedure in contentious cases.

9. If the mortgagee raises objection on any ground other than the amount of the deposit, or if the petitioner is not willing to pay the sum demanded by the mortgagee, the Collector may either (a) for reasons to be recorded dismiss the petition, or (b) make a summary inquiry regarding the objection raised by the mortgagee or regarding the sum due.

Enquiry into objection raised by mortgagee.

10. If on inquiry regarding any objection so raised by the mortgagee the Collector is of opinion that it bars redemption or is a sufficient cause for not proceeding further with the petition, he shall dismiss the petition; but if he is not of that opinion, he shall, unless he dismisses the petition under Section 11, make an order as laid down in Section 6 (a), (b), (c) and (d) of this Act.

11. If on inquiry regarding the sum due the Collector is of opinion that the sum deposited is the sum rightly due under the mortgage, he shall, unless he dismisses the petition under Section 10, make an order as laid down in Section 6 (a), (b), (c) and (d) of this Act, but if he is of opinion that a sum larger than the sum deposited should be deposited by the petitioner, he shall unless he dismisses the petition under Section 10, fix a period not exceeding thirty days within which the petitioner shall deposit the difference, together with any further sum which may be due on account of interest up to the date of the deposit. If the petitioner makes such deposit within such period or such further period not exceeding thirty days, as the Collector may fix, the Collector shall make an order as laid down in Section 6 (a), (b), (c) and (d) of this Act.

Enquiry regarding sum due.

If the petitioner fails to make such deposit within the period fixed, the Collector shall dismiss the petition.

12. Any party aggrieved by an order made under Sections 6, 7, 8, 9, 10 or 11 of this Act may institute a suit to establish his rights in respect of the mortgage but, subject to the result of such suit, if any, the order shall be conclusive.

Saving of suits to establish rights.

Notwithstanding anything in this section a mortgagee against whom an ex-parte order under Section 7 has been made or a petitioner whose petition has been dismissed in default under Section 6 may apply to the Collector to have such order or dismissal set aside, and the Collector may in his discretion set aside order of dismissal on such terms as to costs or otherwise as he may deem fit; provided that the order or dismissal shall not be set aside unless notice of the application has been served on the opposite party.

Setting aside ex-parte orders or orders of dismissal.

13. The dismissal of a petition under this Act shall bar any further petition under this Act by the same petitioner or his representatives in respect of the same mortgage.

No second petition.

14. If the Collector dismisses a petition under this Act he shall order that the sum deposited by the petitioner be returned to him.

Return of deposit.

15. No sum deposited with the Collector by a petitioner under the provisions of this Act shall be attached by any court or Revenue Officer.

Deposit not to be attached.

16. When the petitioner has deposited with the Collector the sum declared by him to be due on the mortgage, and such sum is accepted by the mortgagee, or is found by the Collector to be the sum actually due, interest on the mortgage shall cease from the date of the deposit.

Cessation of interest.

Where the Collector finds that a further sum is due and the petitioner deposits such further sum, interest shall cease from the date of such further depoist:

Provided that nothing in this section shall be deemed to deprive the mortgagee of his right to interest when there exists a contract that he shall be entitled to reasonable notice before payment or tender of the mortgage money:

Provided also that where a suit is instituted under Section 12, the court may pass such order as to interest as it deems fit.

17. The Local Government shall have power to make rules, consistent with this Act, for carrying out the purposes of this Act.

Power to make rules.

C.S.&P. Deptt. N.W.F.P.—80aPB—100—19-10-36—(17)

[Price—Re. 0-1-0 or £ 0-0-3]

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North-West Frontier Province Act V of 1935.

THE NORTH-WEST FRONTIER PROVINCE REGULATION OF ACCOUNTS ACT, 1935.

(Received the assent of the Governor on the 4th April 1935 and of the Governor-General on the 9th May 1935.)

An Act to regulate the keeping of accounts of certain transactions.

Preamble.

WHEREAS it is expedient to make provisions for regulating the keeping of accounts relating to certain transactions in the North-West Frontier Province and whereas the previous sanction of the Governor-General under Section 80-A (3) of the Government of India Act has been obtained to the passing of this Act;

It is hereby enacted as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the North-West Frontier Province Regulation of Accounts Act, 1935.

(2) It extends to the North-West Frontier Province.

(3) It shall come into force on such date as the Local Government may, by notification appoint in this behalf.

Definition.

2. In this Act unless there is anything repugnant in the subject or context:—

(1) "Bank" means a company carrying on the business of banking and registered under any of the enactments relating to companies for the time being in force in the United Kingdom or in any of the Colonies or Dependencies thereof or in British India or incorporated by an Act of Parliament or by Royal Charter or Letters Patent or by any Act of the Indian Legislature.

(2) "Company" means a company registered under any of the enactments relating to companies for the time being in force in the United Kingdom or any of the Colonies and Dependencies

thereof or in British India or incorporated by an Act of Parliament or by Royal Charter or Letters Patent and includes Life Assurance Companies to which the Indian Life Assurance Companies Act, 1912 applies.

(3) " Co-operative Society " means a society registered under the provision of Co-operative Society Act, 1912.

(4) " Court "includes a court acting in the exercise of insolvency jurisdiction.

(5) " Creditor " means a person who in the regular course of business advances a loan as defined in this Act and shall include subject to the provisions of Section 3 the legal representatives and the successors-in-interest, whether by inheritance, assignment or otherwise of the person who advanced the loan.

(6) " Interest " includes the return to be made over and above what was actually lent, whether the same is charged or sought to be recovered specifically by way of interest or otherwise.

(7) " Loan " means an advance whether of money or in kind at interest and shall include any transaction which the court finds to be in substance a loan, but it shall not include :—

(i) a deposit of money or other property in a Government Post Office Bank or any other Bank or in a company, or with a co-operative society;

(ii) a loan to or by or a deposit with any society or association registered under the Societies Registration Act, 1860, or under any other enactment;

(iii) a loan advanced by Government or by any local body, authorised by Government;

(vi) a loan advanced by a bank, co-operative society or a company whose accounts are subject to audit by a certificated auditor under the Companies Act;

(v) a loan advanced to a trader;

(vi) an advance made on the basis of a negotiable instrument as defined in the Negotiable Instruments Act, 1881, other than a promissory note;

(vii) a transaction which is, in substance a mortgage or a sale of immovable property.

(8) " Prescribed " means prescribed by rules made under this Act.

(9) " Trader " means a person who in the regular course of business buys and sells goods or other property whether movable or immovable, and shall include :—

a wholesale or a retail merchant,
a commission agent,

a broker,

a manufacturer,

a contractor,

a factory owner,

but shall not include a person who sells his own agricultural produce or cattle, or buys agricultural produce or cattle for his own use.

Duty of creditor to maintain and furnish accounts.

3. (1) In order to comply with the provision of this Act, a creditor shall:—

(a) regularly record and maintain an account for each debtor separately of all transctions relating to any loan advanced to that debtor in such manner as the Local Government may prescribe,

(b) furnish each debtor every six months with a legible statement of account signed by the creditor or his agent of any balance or amount that may be outstanding against such debtor on the 30th day of June or 15th Har and the 31st day of December or 15th Poh in each year. This statement of account shall include all transactions relating to the loan entered into during the six months to which the statement relates, and shall be sent in such manner and in such form and containing such details as the Local Government may prescribe, on or before the 31st day of August or 15th Bhadon in the case of any balance outstanding on the 30th day of June or 15th Har and on or before the 28th day of February or 15th Phagan in the case of any balance outstanding on the 31st day of December or 15th Poh.

Explanation.—(i) The Local Government shall prescribe the form and numerals in which the accounts required by this provision of this sub-section are to be maintained and furnished and the creditor shall at his option use one of the following scripts and languagse, namely:—English, Pushto, Urdu, Hindi, Gurmukhi, Nagri or Mahajani; provided that if the debtor in writing demands that the accounts be furnished in any one of the above scripts it shall be supplied to him in that script at his cost according to the scale prescribed;

(ii) the prescribed accounts shall be so kept that items due by way of interest shall be shown as separate and distinct from the principal sum and separate totals of principal and interest shall be maintained. The creditor shall not in the absence of agreement include the interest or any portion of it in the principal sum; and

the principal and interest shall be separately shown in the opening balance of each new six-monthly account:—

Provided that—

(i) If the loan has since it was originally advanced, passed by inheritance or assignment to a widow or minor such widow or minor shall not be bound to maintain and furnish the account prescribed by this section for a period of six months from the date of such passing;

(ii) nothing in this section shall be deemed to lay upon any person the duty of maintaining and furnishing the prescribed account in the case of a loan wherein the title to recover is *sub judice* between two or more persons claiming as creditor adversely to each other unless and until the title has been finally decided by a court of competent jurisdiction.

(2) Entries in the account prescribed under clause (a) to sub-section (1) shall be deemed to be regularly kept in the course of business for the purposes of Section 34, Indian Evidence Act, 1872, and copies of such entries certified in such manner as may be prescribed shall be admissible in evidence for any purpose in the same manner and to the same extent as the original entries.

Explanation.—A person to whom a statement of account has been sent under clause (b) of sub-section (1) shall not be bound to acknowledge or deny its correctness and his failure to protest shall not, by itself be deemed to be an admission of correctness of the account.

Penalty for non-compliance with the provisions of Section 3.

4. Notwithstanding anything contained in any other enactment in force for the time being:—

(a) in any suit or proceeding relating to a loan, the court shall before deciding the claim on the merits frame and decide the issue, whether the creditor has complied with the provisions of clauses (a) and (b) of sub-section (1) of Section 3;

(b) if the court finds that the provisions of clause (a) of sub-section 1 of Section (3) have not been complied with by the creditor, the court shall, if the plaintiff's claim is established in whole or in part, disallow the whole or a portion of the interest found due, as may seem reasonable to the court in the circumstances of the case and shall disallow costs;

(c) if the court finds that the provisions of clause (b) sub-section (1) of Section 3 have not been complied with by the creditor, the court shall in computing the amount of interest due upon the loan exclude every period for which the creditor omitted duly to furnish the account required by clause (b) of sub-section (1) of Section 3 provided that if the creditor has after the time prescribed in that clause furnish the account and the plaintiff satisfies the court that he had sufficient cause for not furnishing it earlier, the court may, notwithstanding such omission, include any such period or periods for the purpose of computing the interest.

Explanation.—A person who has kept his account and sent his six-monthly statements of accounts in the form and manner prescribed in clause (a) and (b) of sub-section (1) of Section 3 shall be held to have complied with the provisions of these clauses inspite of errors and omissions if the court finds that the errors and omissions are accidental and not material and that the accounts have been kept in good faith with the intention of complying with the provisions of these clauses.

Savings.

5. The provisions of this Act shall not apply to any loan advanced before the commencement of this Act.

Provided that if any fresh transaction relating to a loan advanced before the commencement of this Act is made after the commencement of this Act, such transaction shall be subject to the provisions of this Act.

Powers of Local Government to make rules.

6. (1) The Local Government may make rules consistent with the Act for the purposes of carrying out all or any of the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the Local Government may make rules—

(a) prescribing the forms and numerals to be used in the accounts required by sub-section (1) of Section 3;

(b) prescribing the manner in which the accounts required by clause (b) of sub-section (1) of Section 3 shall be furnished by the creditor to the debtor, the forms to be used and the details to be incorporated therein and the scale of costs to be paid by such debtors as may demand that the account required by this clause should be furnished in one of the particular scripts mentioned in explanation (i) of this clause.

Penalty for entering in books of account a sum larger than that actually lent.

7. Any creditor who after the commencement of this Act records in his book of accounts as lent to an agriculturist a sum larger than that actually lent whether by way of charges for expenses, inquiries, fines, bonuses, premia, renewals, or otherwise shall be punished for the first offence with fine which may extend to two hundred rupees and for a second or subsequence offence with regard to the same or any other agriculturist, with fine which may extend to one thousand rupees or imprisonment of either description not exceeding six months or both.

34

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